

INTERNAL REVENUE SERVICE

RETURN PREPARER REVIEW PUBLIC FORUM

RONALD REAGAN BUILDING
AMPHITHEATER

WASHINGTON, D.C.

JULY 30, 2009

9:00 - 12:00

EXECUTIVE COURT REPORTERS
(301) 565-0064

AGENDA

Welcome Doug Shulman, Commissioner

Consumer Panel Mark Ernst, Deputy
Commissioner Operations Support
(Moderator)

Introduction of Panel Members

National Community Tax Coalition-Robin McKinney,
Director of the Maryland CASH Campaign

Center on Budget and Policy Priorities -- John
Wancheck, EITC Campaign Coordinator

American Association of Retired Persons -- Bonnie
Speedy, National Director, AARP Tax-Aide

Consumer Federation of America -- Jean Ann Fox,
Director of Financial Services

Low Income Tax Clinic -- Paul Harrison, Clinic
Coordinator, Community Tax Law Project

5-Minute Statements**Discussion**

Wrap-up Mark Ernst, Deputy Commissioner,
Operations Support
Karen L. Hawkins, Director, Office
Of Professional Responsibility
Doug Shulman, Commissioner

15-Minute Break

Preparer Panel Karen L. Hawkins, Director, Office
Of Professional Responsibility
(Moderator)

AGENDA (Continued)**Introduction of Panel Members**

National Association Enrolled Agents -- Frank Degen, Chair, Government Relations Committee

The American Institute of Certified Public Accountants -- Mike Dolan, Chair, IRS Practice and Procedure Committee of the AICPA

American Bar Association -- Armando Gomez, Vice Chair, Government Relations

National Society of Accountants -- Jim Nolen, President

National Association of Tax Professionals -- Larry Gray, Government Affairs Liaison

5-Minute Statements**Discussion****Wrap-Up**

Karen L. Hawkins, Director, Office
Of Professional Responsibility
Mark Ernst, Deputy Commissioner,
Operations Support
Doug Shulman, Commissioner

Closing

Doug Shulman, Commissioner

P R O C E E D I N G S

(9:00 a.m.)

COMMISSIONER SHULMAN: Good morning, everyone. Thank you for being here. I'm Doug Shulman, the Commissioner for the IRS. Before we get into initial presentations, and the dialogue that's going to follow, I want to make a few quick observations about why this forum talking about tax preparers is so important to the IRS, to taxpayers, and to the integrity of the United States tax system.

First, a lot of people have asked me what prompted this review of tax preparers and how the IRS goes about ensuring that tax preparers are responsible, service taxpayers well, help us bring in the right amount of money to fund the government. So why are we doing this review and why did I put it on the front burner?

The short answer to that is change. And what I mean by "change" is that in recent years, really, over the last 20 years, there's been a radical change in the way that the American people interact with their government to pay the right amount of taxes. The old image of a family sitting around with a No. 2 pencil and a 1040, scribbling away with a shoebox full of

1 their financial records is just an image that's no
2 longer reality. Today nine out of ten individuals use
3 either a tax preparer or third-party software to
4 complete their federal tax returns.

5 If you think about that system, what it means
6 is it's no longer just the IRS interacting with
7 taxpayers, but it's the IRS interacting with taxpayers
8 largely through a set of intermediaries that are
9 sitting between us and taxpayers. This is nothing more
10 or nothing less than a transformational shift in the
11 tax system and it's one that we strategically need to
12 make sure we're on top of and that we work with.

13 So the IRS needs to not only recognize that
14 change, but we need to embrace that change and we need
15 to make sure that the preparer community is part of the
16 success of the overall tax system. So what that means
17 is we believe -- I believe, that preparers need to be
18 supported and they need to be held accountable for the
19 service they provide to taxpayers and for being part of
20 the system that brings in the money that funds the
21 federal government.

22 This review, I think, is going to help us
23 understand the preparer community better, understand
24 perspectives of taxpayers, consumer groups, the

1 preparer community, others in government who have tried
2 to work with the preparer community.

3 If you fast forward I announced that at the
4 end of the year I'm going to make a broad set of
5 recommendations around what we need to do strategically
6 and how we need to adjust as a service to make sure
7 that we're recognizing this trend and leveraging the
8 preparer community to help us do our job. I'm also
9 going to make recommendations to the Treasury Secretary
10 and the President for any changes that are needed that
11 might be statutory or other.

12 I've said before, and I'll say it again, at
13 the start of this forum, all ideas are on the table.
14 We are at the very beginning part of this review. I
15 wanted it to be an open and public review where we have
16 a full discussion and we're going to cover a broad
17 spectrum of topics at this early stage and then we'll
18 narrow down and decide where we want to go.

19 Models of regulation have been what has been
20 widely reported in the press as kind of the goal, are
21 we thinking about regulating preparers, are we thinking
22 about registering them, are we thinking about licensing
23 them. Those, of course, are all on the table. But I
24 view this as broader than that as well. That we need

1 to explore how to shift our strategies around service
2 and outreach, education and training, enforcement of
3 misconduct, just to name a few. And through today's
4 forum, through future forums, through the input we get
5 from the public, through our notice and comment
6 process, that list will change and will be adjusted and
7 will be informed as we go through our deliberations.

8 Let me just say one more thing. We've tried
9 to set this up in a way that will have diverse input
10 and that we get good information from panelists as we
11 go forward. So we're having this forum, we're going to
12 have several more in the fall. We've been going around
13 to our tax forums around the country and bringing in
14 small groups. We also put out a notice -- an IRS
15 notice asking for comments. So I encourage all of you
16 in the audience who may or may not end up on a panel to
17 give us your input. Because we really are looking for
18 a broad range of input and want to have the widest
19 discussion and the most public engagement we can have.

20 Before I turn this over to Mark Ernst who is
21 going to start this, let me just introduce Mark Ernst
22 and Karen Hawkins. Mark is the Deputy Commissioner for
23 Operations and Support at the IRS. Karen is the
24 Director of the IRS Office of Professional

1 Responsibility. I asked them to lead this effort.
2 Mark is a veteran business executive who brings a
3 wealth of experience. Karen has been a lawyer in the
4 field of tax for many years. We actually recruited her
5 from being -- she was about to be the chair of the ABA
6 Tax Section. So sorry to the ABA who has come in, but
7 our gain. And I've asked them to lead this effort with
8 me. So they are going to be running most of the forum
9 today.

10 Let me also just thank all of you who came in
11 the audience. I think this demonstrates not only the
12 importance of this subject that we have this good a
13 turn out, but also that there's a lot of people who
14 care about the integrity of the tax system, care about
15 doing what's best for American taxpayers, care about
16 doing what is best for the nation. So it's an
17 important topic. I'm looking forward to engaging this
18 morning and with that I'm going to turn it over to
19 Mark.

20 MR. ERNST: Right. Thanks, Commissioner
21 Shulman.

22 I want to also say good morning to everyone.
23 Before we get started, let me talk just briefly about
24 the information that we've provided to you and then a

1 little bit about the format that we are going to be
2 using this morning. We are going to -- in your packet
3 you will find copies of the agenda, copies of the bios
4 of the individuals who will be panelists. And you will
5 also find in there comment cards.

6 One of the things that we would like to do
7 is, as you are hearing different things if there are
8 thoughts that you have that and you would like to use
9 that as a format to share your thoughts with us, we
10 certainly welcome that. Of course, that doesn't
11 preclude any of the other ways of looking for your
12 input, but wanted to make that available today.

13 The panel format that we are going to be
14 using is to -- we are going to hold two panels. The
15 first one is the one that we're about to begin
16 represents a broad range of folks who have had
17 experience with the consumer side of the tax
18 administration system. And I'll do individual
19 introductions as we get into that. And then after a
20 break we will be having a second panel that goes more
21 specifically to the tax preparation industry and a
22 preparer panel or folks who represent people from the
23 tax preparation industry so that we can get their
24 perspectives early in this process.

1 So that's the format we are going to be --
2 the format will be that the panelists will be sharing
3 their introductory comments individually and then after
4 they have done that we have, you know, we will try to
5 explore a variety of different subjects that we think
6 would be useful to kind of tap into their expertise.
7 So that's how we are going to do it.

8 With that, let me briefly introduce the
9 panelists. I will give you a deeper introduction as
10 they are ready. Let me welcome our panelists.

11 So the five panelists we have this morning,
12 first of all from the National Community Tax Coalition,
13 Robin McKinney, who is the Director of the Maryland
14 CASH Campaign. Robin, welcome.

15 From the Center on Budget and Policy
16 Priorities, John Wancheck is the EITC Campaign
17 Coordinator. And I'll give you more on each of their
18 backgrounds as we get started.

19 From the American Association of Retired
20 Persons, Bonnie Speedy is the National Director of
21 their Tax Aide Program and serves in a number of
22 different forums to advise the IRS.

23 From the Consumer Federation of America, Jean
24 Ann Fox is the Director of Financial Services and has

1 done a lot of work in the field of financial products
2 and how they relate to the tax system.

3 And, finally, Paul Harrison is the Clinic
4 Coordinator of the Community Tax Law Project and is
5 here representing the low-income tax clinic industry.

6 So welcome.

7 And I'll do more individual introductions as
8 we go.

9 What we are going to do is have each
10 panelist, Robin, if you are good with that, we're going
11 to have each of the panelist give us their kind of
12 early comments and then we will turn to questions after
13 everybody has had a chance to do that.

14 So I'm going to first introduce Robin
15 McKinney. Robin is the Director of the Maryland CASH
16 Campaign. It's a statewide network that promotes
17 financial stability for low-income households
18 throughout the State of Maryland. She was formerly the
19 Assistant Director of the East Harbor CDC where she
20 created and managed the Moneywise Café which was a --
21 is a one-stop shop for asset development and ran a very
22 high volume free tax preparation site as part of that
23 program.

24 Robin has a Bachelor's Degree in Social Work

1 from Elizabethtown College and her Master's Degree in
2 Social Work from the University of Maryland at
3 Baltimore.

4 So we will start with Robin.

5 MS. McKINNEY: Thank you. And good morning
6 to everybody. It's very exciting for me to be here
7 this morning. One on behalf of the National Community
8 of Tax Coalition, but also on behalf of the Maryland
9 CASH Campaign. Because just after two long years we
10 were actually able to pass a bill in Maryland licensing
11 paid tax preparers. So this is very near and dear to
12 our heart and brought together a very diverse coalition
13 much like you see in the panels. And I really have to
14 commend the IRS for taking the time to listen because
15 there are a lot of different facets to the tax
16 preparation industry. So I really appreciate your
17 thoughtfulness on that.

18 The National Community Tax Coalition is a
19 network of over 4,500 volunteer income tax preparation
20 sites from around the country. Each year these VITA
21 sites prepare more than 1 million tax returns each
22 year. And all of our clients make less than \$42,000.
23 So this is primarily a low-income audience and there's
24 over 45,000 volunteers each year that help us to

1 prepare these taxes which is an epic number of people -
2 - if you think about that -- across the country.

3 Each of the volunteers has to be certified
4 and pass an annual exam. There are three standards
5 that they have to meet, either a basic, an intermediary
6 or an advanced. And the training can be anywhere from
7 eight hours to upwards of 40 hours. And all of these
8 volunteers are overseen by certified site managers and
9 then the entire volunteer income tax assistance program
10 received oversight through the IRS through the
11 Stakeholder Partnerships Education and Communication or
12 the SPEC office. So we work very closely with the IRS
13 to, number one, ensure quality; two, ensure compliance;
14 and three, just to make sure that each of our clients
15 get the utmost quality tax return that we possibly can.

16 We support the licensing of paid tax
17 preparers for several reasons. One is, each year when
18 we get someone's tax return, we often see their tax
19 return from prior years and we have seen an incredible
20 mix of everything from simple mistakes to out and out
21 fraud. The three biggest areas of fraud that we've
22 seen have primarily been around the earned income tax
23 credit, around Schedule C or itemized deductions as
24 well as all other kind of small business related

1 expenses. And that's where we see the most. Also
2 around charitable deductions.

3 The story I always share is I have a client
4 who came in two years ago and made about \$18,000. And
5 I was looking at his taxes and I said, well, you gave a
6 lot of money to your church last year and I don't see
7 that on your taxes this year. He said, oh, I didn't
8 give any money to church. And I said, "Well, you have
9 \$13,000 in charitable contributions on your tax return"
10 and he didn't know. And as a result of giving so much
11 on those charitable contributions, of course, he got a
12 large refund. Which then we had to work with him to
13 amend his return and we had to -- he had to pay back.
14 And I think that that's the number one thing that a lot
15 of clients don't understand and most taxpayers is that
16 when you sign on the bottom line it is your
17 responsibility. And what happens though is for people
18 when there is fraudulent activity, they get caught in
19 the system and our local state agencies and the
20 Internal Revenue Service, of course, is going to
21 follow-up with them and we feel like that's a major
22 issue.

23 We do agree that all tax preparers should be
24 registered whether they're a CPA or an enrolled agent

1 in terms of having an identification number just for
2 tracking purposes. But then we really believe that
3 there needs to be an exam requirement which we do
4 believe that CPAs, attorneys, and enrolled agents would
5 be exempt from. That's how we set it up in Maryland
6 and we very much believe in a competency system.

7 We also very much believe in continuing
8 education. Tax laws, as we know, change each and every
9 year and it's very important for people to keep on top
10 of all of the different tax laws that are coming up.

11 We also believe, much like we set out our
12 coalition in Maryland, we believe that having an
13 oversight board that has a diverse set of stakeholders
14 that represent each facet of the industry is very
15 important to increase accountability. I think just
16 like with any sort of licensing system there is the
17 front-end side of making sure that people are following
18 the rules to become licensed and taking the exams. But
19 on the flip side is how are we handling the complaints
20 and how is that information filtering up in terms of
21 penalties, enforcement, and just holding the field to
22 the high standard that I think it wants to be held to.

23 I think in closing, the most important thing
24 that we learned in Maryland is that this really takes

1 time and that it's not a quick fix. I've seen a lot of
2 solutions floating around as soon as the IRS started
3 talking about this. Some seem incredibly simple.
4 Well, why can't we just give everyone a P-TIN and then
5 we'll have some complaints and we'll be able to track
6 them that way. And as soon as the tax software
7 industry I think really took off, we saw a big jump in
8 people going from tax professionals as a career choice
9 to being a tax professional over a short period of time
10 and on the side. And there's nothing wrong with that.
11 But understanding that the field has changed, so does
12 our licensing standards needs to change. And the tax
13 return is really the backbone of our financial system.
14 That's what you use to verify your income for loans.
15 It's what you use to get a job for income verification
16 for employment. It's incredibly important that these
17 tax returns are done correctly. And we need to set a
18 higher standard for that.

19 Thank you.

20 MR. ERNST: Thank you, Robin. I think your
21 experience with the recent round of looking at this
22 whole issue in Maryland will be very valuable. So
23 thanks for being here today.

24 I want to next introduce John Wancheck more

1 completely. John is the Earned Income Credit Campaign
2 Coordinator for the Center on Budget and Policy
3 Priorities which is a Washington-based non-profit
4 organization that conducts research and policy analysis
5 on issues that have an impact on low- and moderate-
6 income Americans. The Center has spearheaded a
7 national public education campaign on the Earned Income
8 Credit each year since 1989 and distributes a widely-
9 used Tax Credit Community Outreach kit.

10 So we welcome you, John, and look forward to
11 your comments.

12 MR. WANCHECK: Thanks very much, Mark. And
13 we also very much appreciate the invitation to be part
14 of this process today and the ongoing effort that we
15 think is very important.

16 As you've said, we've conducted -- the Center
17 on Budget and Policy Priorities has conducted a
18 national public education campaign for 20 years to
19 publicize the need for low- and moderate-income workers
20 to file the proper tax forms to receive their earned
21 income tax credit and child tax credit, benefits that
22 they've earned.

23 We emphasize the need for free tax filing
24 alternatives such as the volunteer income tax

1 assistance program to be available in communities and
2 publicized as a natural part of EITC outreach.

3 Recognizing though that about 70 percent of EITC claims
4 are now filed through commercial tax preparers, we also
5 provide materials with guidelines on choosing a tax
6 preparer and warnings about the high costs and risks
7 associated with refund anticipation loans.

8 We support the IRS's current requirement that
9 every VITA and tax counseling for the elderly volunteer
10 pass a certification exam before they can assist
11 individuals to file their returns. The volunteers are
12 there to help low-income individuals obtain tax
13 benefits to which they are entitled and they should be
14 well trained in the rules so that they don't lead
15 people into costly errors. But these volunteer
16 programs prepare just a small fraction of nearly now
17 100 million tax returns filed by low- and moderate-
18 income individuals.

19 Considering that hundreds of thousands of
20 unenrolled commercial tax preparers are providing tax
21 preparation services to the vast majority of lower-
22 income tax filers it appears unwise that they have no
23 education or certification requirements whatsoever to
24 navigate a very complex set of tax rules and filing

1 procedures. Moreover, unlike the volunteer preparation
2 programs, filers pay them for their services. These
3 preparers are provided access to IRS electronic filing
4 services which help them profit by enabling them to
5 offer fast refunds to filers and even immediate loans
6 against perspective refunds.

7 The need for stronger standards for
8 unenrolled tax preparers is clear. The Government
9 Accountability Office has noted IRS National Research
10 Program findings that errors by paid preparers were
11 more frequent than errors on self-prepared returns.

12 IRS studies of EITC errors have shown that
13 unenrolled preparers outside of the large chains had
14 substantial error rates, considerably higher than CPAs,
15 attorneys, enrolled agents and employees of the chains.
16 But both GAO and the Treasury Inspector General for Tax
17 Administration have issued reports finding serious
18 preparation errors by both chain preparers and small
19 preparers.

20 So stronger standards would better serve
21 lower-income tax filers -- all filers, really, although
22 unenrolled preparers are a key source for EITC and
23 other filing errors, there is little accountability to
24 the public. Lower income filers suffer the hardships

1 of denied claims, penalties, interest, and delay or
2 denial of subsequent year refunds. The IRS has few
3 tools other than expensive fraud investigations to
4 control errors and negligence by ill-equipped
5 preparers.

6 We believe a system for greater
7 accountability and training of preparers should be
8 developed. The National Taxpayer Advocate has long
9 recommended such a system. We believe their
10 recommendations merit serious consideration and hold
11 the promise of reducing errors and overpayments without
12 harming eligible filers.

13 A certification and registration program
14 would have the following advantages: it would improve
15 deterrence of filing errors. It is important for IRS
16 to catch erroneous claims, but even better to deter
17 them to begin with. Certification exams provide a
18 benchmark of competency to remain in or enter the tax
19 preparation field. In an era of tax filing software
20 and rapid e-filing, it's critical that preparers
21 actually understand the complex rules.

22 IRS must have greater enforcement flexibility
23 which is provided by an ability to suspend or revoke a
24 preparer's certification and the privileges of

1 electronic filing. It provides a tool for the IRS to
2 identify shortcomings and a preparer's understanding of
3 the rules and enhances the ability of the IRS to
4 identify unscrupulous preparers who can pass a
5 certification test, but have high rates of filing
6 errors.

7 The IRS has developed extensive training
8 materials and curricula for VITA and TCE volunteers.
9 These materials including on-line training could be
10 made available or adapted for preparers as an
11 alternative to more expensive tax training programs.

12 An important aspect of such a system, a
13 certification system, would be a highly visible ongoing
14 public awareness campaign about the certification of
15 preparers with a very recognizable seal of
16 certification for tax filers to look for as a sign of
17 competency.

18 Now, this system will not prevent relatives
19 and friends from assisting individuals to prepare their
20 returns at no charge. But it will better ensure that
21 both large- and small-scale preparers who charge fees
22 will be competent. So we urge the IRS to embrace a
23 plan to register unenrolled tax preparers and to
24 require a certification test which it has previously

1 resisted. We are hopeful that the Commissioner's
2 initiation of this process now to explore improvements
3 in the tax preparation industry signals a willingness
4 to consider this position.

5 Thanks very much.

6 MR. ERNST: Thank you, John.

7 Let me next introduce Bonnie Speedy. Bonnie
8 is the National Director of AARP's Tax-Aide and is a
9 Vice President with the AARP Foundation here in
10 Washington. In addition she directs all aspects of the
11 AARP Tax-Aide Program which serves two -- almost 3
12 million tax payers this past year including program
13 outcomes, policy development, implementation
14 strategies, evaluation of its effectiveness and
15 communication programs for all of its volunteer.

16 So, Bonnie, we appreciate you being here and
17 look forward to your comments.

18 MS. SPEEDY: Good morning. I talked to Karen
19 earlier and I would like to thank all three of you in
20 front of everybody here that this is probably the
21 widest net I've ever seen cast to really gather input
22 back on a very important project. So I commend the IRS
23 for that effort and the three of you specifically for
24 leading that.

1 It's interesting that I go after Robin and
2 John. We work in the same arenas often. In this case
3 I think we are all somewhat on the same track. Robin
4 works with the National Tax Coalition who is a huge
5 VITA partnership. Tax-Aide is sort of the other side
6 of that. We are the largest TCE grant. And Tax-Aide,
7 AARP Tax-Aide, alone serves 1.5 million tax returns and
8 almost 3 million people a year. We have been doing
9 this for about 41 years. And we have 36,000 volunteers
10 at this point. So we've got a lot of experience in
11 this area.

12 So all tolled last year we did over half of
13 the returns prepared by an volunteer affiliated with
14 the IRS.

15 Our counselors come in from everywhere. You
16 know, people tend to think that we are out there
17 getting accountants, CPAs that are retired to come be
18 part of our program. And many of them do and we're
19 very grateful that we do -- they do. We have often
20 current CPAs and EAs and IRS employees come work with
21 us and we are thrilled for that. But a lot of the
22 people who come to work with us as Tax-Aide are retired
23 individuals who, you know, like numbers, of course,
24 like people, and want to prepare taxes. So every year

1 we have to make an effort to bring folks that don't
2 have this type of background up to speed to be able to
3 do taxes.

4 So we have had a lot of experience working
5 with the IRS SPEC in developing and working with the
6 tests. We actually work with them annually on this
7 process and every year our volunteers get certified.

8 The returns that we do aren't quite as simple
9 as many might think. We do full 1040s, we do Schedule
10 A's, we do Schedule B, we do C-EZ, we do Schedule D's,
11 not all of them, but large parts of them. We do many
12 of the credits and many of the credits that you do for
13 lower or moderate income taxpayers are the ones, in
14 some cases, that are most complicated, child
15 independent care gets complicated if you get it taken
16 out of your pay check. EITC, of course, is very
17 complicated.

18 The family take that Robin talked about for a
19 while, there are multiple levels of it. There's basic,
20 there's intermediate, there's advanced, there's
21 military, there's even international. We require all
22 our volunteers for Tax-Aide to take it at the advanced
23 level and we let many of them go ahead and move into
24 the military area so we can help the military

1 reservists in the area.

2 The IRS years ago used to allow an exemption
3 for people taking the exam for the volunteer programs.
4 About five years ago we purposely stopped allowing that
5 exemption for EAs and CPAs and IRS employees and we
6 made everybody take the test.

7 Being director for nine years, I can tell all
8 of you that I am aware of no negative impact on our
9 program with people leaving because they felt that it
10 was an inappropriate thing to do. Frankly, I think
11 they supported it.

12 I think the automation in the current world,
13 really allows for opportunities that the IRS may not
14 have had in this area even five years ago. As I'm want
15 to do, I sort of went down a road of thinking about
16 some things that might work in this area. It's a
17 relatively short list.

18 The IRS has been certifying 60-70,000
19 volunteers annually for decades. This is not a new
20 thing for them in that area. They have a web version
21 of the test that they talked about that we've been
22 using or many folks have been using for the last three
23 to four years.

24 There's a standard of conduct that comes off

1 that web version that all volunteers must sign which I
2 also think is a precursor to what could be done with
3 the rest of the volunteers. And something similar to
4 that perhaps could be printed off if we expanded the
5 use of this program which I think it could. The Link
6 and Learn system which is the system on the web can
7 certify multiple levels and I think even with the CEC
8 that it's already testing is already platformed to take
9 to another level. In that case it would include EITC
10 and perhaps start branching out into the four schedule
11 C's.

12 It provides an automatic authentication and
13 certification back that you have passed the exam and
14 the IRS knows who you are and that you did pass what
15 level you passed at every year just by being on the
16 system.

17 With additional modification maybe first-time
18 Link and Learn users that were in the wider
19 professional community could get their P-TIN number and
20 then be ready to go with one number for everything
21 which is always a hot topic on another conversation.

22 With upgrading of other system modification
23 Link and Learn could generate an authentic unit number
24 every year for when you go in to take your test you

1 have to re-sign up, get a new number to take your test
2 every year. That would provide a requirement for an e-
3 mail address which would give the IRS access
4 potentially to all the preparer community on important
5 issues like we faced last year with the 7216
6 regulations and the economic stimulus that hit at a
7 crisis level very quickly that the IRS had to move
8 fast. And they always kind of hit this wall of how to
9 get out it to the paid community very quickly.

10 With continued system modification perhaps
11 this system, this testing and these numbers could be
12 used to identify aggressive tax preparers who seem to
13 live on the outside of reasonable limits and can
14 provide a way for 230 type monitoring. And I think
15 this has to go along with a very robust public service
16 campaign. And I took a stab at this that volunteers --
17 that the IRS needs to communicate that effective
18 whatever date all preparers must be tested and
19 certified, they must sign returns and provide their
20 number. That if the preparer doesn't sign they are
21 illegally preparing tax prep. And, of course, that
22 probably needs legislation. And taxpayers or other
23 professionals should call the IRS hotline if they
24 believe a preparer is not in compliance. I've heard

1 Oregon speak before and they said that works well with
2 their program. I encourage you to talk to Oregon as
3 well.

4 Even having -- we believe the testing process
5 is a healthy reacquainting of volunteers every year
6 with the tax law. And since the testing process brings
7 in new law, we feel that it not only reacquaints
8 everybody with tax law annually, it makes sure
9 volunteers are up to speed on what's new. Having
10 volunteers other than those that are already
11 credentialed taking the same volunteer test we believe
12 begins the process of standardization and bar setting
13 reasonably expected by the taxpayer for paying for a
14 service to accurately meet their annual tax filing
15 objectives. We feel that American taxpayers deserve no
16 less and that volunteers and IRS SPEC have really
17 blazed the trail that can be followed by the paid
18 preparer community as well.

19 Not only have I been the director of the
20 program for nine years, I've been a volunteer in the
21 program for ten, the year before. I would not want to
22 personally do taxes without the annual training and
23 certification program we go through. I'm a bit
24 competitive and every year when I don't pass a certain

1 test question, you believe I'm back in the manual
2 trying to figure out what that is, why I got it wrong,
3 and I believe I'm a better tax preparer annually
4 because of the process we go through. So I encourage
5 you to really consider this as an alternative. So
6 thank you.

7 MR. ERNST: Great. Thank you, Bonnie, we
8 appreciate your comments.

9 Let me net introduce Jean Ann Fox. Ms. Fox
10 is the director of financial service for the Consumer
11 Federation of America which is an association of about
12 280 pro-consumer state and national organizations that
13 speaks on behalf of consumers. She specializes in
14 financial services, electronic commerce, and high-cost
15 credit issues. Before going to work for CFA in 1997,
16 Ms. Fox served as a Board member, President and Vice
17 President of CFA.

18 She is a co-author of an annual report on
19 refund anticipation loans and related tax preparation
20 issues that is issued by the CFA and the National
21 Consumer Law Center that they've been doing since 2002.

22 So Jean Ann, we appreciate you being here and
23 look forward to your comments.

24 MS. FOX: Thank you. Good morning, thank you

1 Commissioner Shulman. And I appreciate all of you
2 coming to listen to us talk about how to improve tax
3 filing to benefit consumers.

4 As Mr. Ernst noted, CFA and the National
5 Consumer Law Center have been studying financial
6 products sold through the tax preparation system since
7 2002. And our annual reports come out early in the
8 year. They are posted at ConsumerFed.org. And because
9 I can't begin to cover all the details in these reports
10 I would refer you to look at our information on our
11 website.

12 Refund anticipation loans are quickie loans
13 extended by banks through tax preparers to consumers
14 who can be persuaded to buy these loans. They last for
15 about ten days, they cover the time period between when
16 you pick up your loan at the tax preparer and when the
17 IRS direct deposits your actual tax refund into a bank
18 account that's opened at the lending bank to pay off
19 the loan, pay the tax preparation fees, pay the finance
20 charge on the loan and settle the transaction. In 2007
21 there were 8.7 million consumers who paid for a loan to
22 access their tax refund just a few days sooner than
23 they could have otherwise gotten it for free directly
24 from the IRS. They paid \$833 million in RAL fees and

1 another \$68 million in add-on fees. These loans cost
2 50 to 500 percent APR if you include all of the fees
3 that are involved in taking them out. So this is very
4 expensive credit.

5 Another financial product sold through the
6 tax system is a refund anticipation check. This isn't
7 a loan, it is the delivery of the tax refund through
8 the tax preparer's partner bank through direct deposit
9 that you then pick up the check at the tax preparer.
10 This is the default product that you get if you apply
11 for a refund anticipation loan and you are turned down
12 for some reason. You automatically end up paying for
13 what we call a RAC, a refund anticipation check. Those
14 cost about \$30 each. In 2007 consumers paid \$336
15 million just to handle their refund through the tax
16 preparer and their partner bank.

17 The consumers who are most likely to pay for
18 these extra financial products are typically low-
19 income. They may be unbanked. The IRS reports that 85
20 percent of all customers have a gross income of \$38,000
21 or less. And in 2007, two-thirds of the borrowers
22 using refund anticipation loans or almost 5.5 million
23 families were low-income workers who receive the earned
24 income tax credit. Half of earned income tax credit

1 recipients get either a RAL or a RAC. So the folks who
2 have the least income are paying extra for quicker
3 access to money from the IRS by way of a financial
4 product that carries its own risks with it.

5 Of course, we think this is bad deals for
6 consumers but I was asked to talk to you about why it's
7 a bad deal for the IRS and for tax preparation. First
8 of all the ability to take fees for tax preparation out
9 of the proceeds of a loan or the delivery of a refund
10 anticipation check permits tax preparers to hide the
11 cost of tax preparation. If you ask what it's going to
12 cost to do your taxes, they say, well, it depends on
13 how many forms we have to fill out. So you go into the
14 transaction not knowing what it's going to cost, but
15 consumers can be less price sensitive because they
16 don't have to have the cash in their pocket, it's going
17 to come out of the refund loan or the refund check. It
18 permits tax preparers to pad the cost with extra fees
19 once they know how big a refund loan you're going to
20 get. In fact, we included in our reporting this year
21 advice from one of these companies that says lowball
22 it, you know, advertise a really low fee for tax
23 preparation and then charge more for e-filing and bank
24 products to make up for the lowball price. So that's

1 how these programs are marketed to taxpayers as a way
2 to pad the fees, take more money out of the pockets of
3 the working poor.

4 Permitting the sale of financial products
5 through the tax system also contributes to fraudulent
6 tax filing and aggressive tax positions taken by
7 preparers. And the IRS has reported on this in either
8 testimony or reports over the last few years. The 75
9 to 80 percent of fraudulent e-filed tax returns
10 involved either a RAL or a RAC.

11 So this method of quick access to the
12 proceeds from a tax refund almost also makes this
13 attractive to identity thieves a way to take the money
14 and run before the fraudulent return is detected. And
15 in the Department of Justice a civil case against one
16 of the major tax preparers they found that refund
17 anticipation loans were implicated in a lot of the
18 fraudulent return filing.

19 The ability to sell a loan or a check with a
20 tax return also provides a financial incentive to
21 inflate the refunds. Tax preparers either are paid
22 what you could call a kickback or fee for each RAL sold
23 or they participate in that portfolio of loans that are
24 sold. And that's what's in it for the tax preparer.

1 They can attract people to come in and use their
2 service as well because they don't have to pay for tax
3 preparation up front.

4 Tax preparation by retailers that sell refund
5 anticipation loans it's also a way to tie up the
6 largest infusion of cash into a lot of families'
7 budgets every year in order to make a down payment on
8 their used car or to sell their piece of furniture,
9 their appliance or whatever they have that they
10 encourage people to use their refund to buy.

11 For the incentive for selling these loans and
12 checks it's also attractive to fringe financial service
13 providers. So you have a large number of check casher,
14 payday lenders, rent-to-own stores, small loan
15 companies, other companies that year around charge very
16 high prices to consumers for financial services to also
17 hold themselves out as tax preparers and to sell refund
18 anticipation loans.

19 If the IRS did not permit the sale of these
20 high-cost credit products through the tax system you
21 would have an easier time supervising and administering
22 tax preparation because you would be much less likely
23 to attract used car dealers, furniture stores, and
24 high-cost credit providers to the ranks of the tax

1 professionals.

2 We appreciated the fact that the IRS held a
3 docket to look into whether the sale of refund
4 anticipation loans, RACs, and other financial products
5 was detrimental to tax filing. Last year we filed
6 copious comments and we refer you to those as you
7 proceed out with this docket.

8 My colleagues have mentioned the shockingly
9 poor quality of tax preparation that consumers are
10 paying for. And CFA and the National Consumer Law
11 Center and others join them in urging the IRS to
12 provide for an appropriate level of supervision and
13 qualifications and training and accountability so that
14 when consumers pay the hundreds of dollars they shell
15 out every year to a commercial tax preparer they are
16 actually getting their money's worth. That it's
17 accurate and it's good quality, especially because the
18 individual taxpayer who signs the form is legally on
19 the line for the accuracy of the tax form, not the
20 preparer who has sold the financial product and jacked
21 up the fees and fudged the numbers in order to make the
22 most out of that transaction.

23 We also urge you to develop free electronic
24 filing for consumers so they can go directly to the

1 IRS, fill out the forms, file their tax returns for
2 free just as we mail in paper for free, and to do
3 whatever you can to speed up refunds to make loans less
4 attractive to consumers.

5 MR. ERNST: Thanks. Thank you very much Jean
6 Ann.

7 And finally, many of the people that you've
8 heard from so far are kind of on the -- have experience
9 on the front end of the process as consumers are coming
10 to the filing process. Our last panelist, Paul
11 Harrison, is actually on the other end where, you know,
12 once a consumer has an issue of one sort or another how
13 to help them. He works with the Community Tax Law
14 Project as a Low-Income Taxpayer Clinic Coordinator.
15 He's done that since October of 2006. Before joining
16 CTLP, he spent five and a half years as the Low Income
17 Tax Coordinator for Pine Tree Legal Assistance up in
18 Maine. He has been an Enrolled Agent since 2002 and
19 became a Fellow of the National Tax Practice Institute
20 in 2007.

21 Paul, we welcome you and look forward to your
22 comments.

23 MR. HARRISON: Thank you and good morning to
24 everyone.

1 Approximately 75 percent of our clients at
2 CTLP pay someone to prepare their tax returns. These
3 paid preparers are almost exclusively unlicensed or
4 unenrolled. Many are employed by large commercial tax
5 preparation houses. Many are proprietors of smaller
6 shops that advertise tax return preparation services.
7 And some, sadly, are individuals who are out to scam
8 unsuspecting taxpayers and the government.

9 CTLP's work with low-income taxpayers
10 provides us with the opportunity to review a lot of tax
11 returns. Many tax controversies arise, unsurprisingly,
12 because of mistakes on tax returns. And many can be
13 resolved by correcting the mistakes or by providing
14 substantiation for the claims that are made on a
15 return.

16 It may come as a surprise, however, that low-
17 income taxpayers do not necessarily have simple tax
18 returns. Many low-income taxpayers are self-employed.
19 Many file returns which contain more than one Schedule
20 C. Many have claims for the earned income tax credit
21 complicated by disallowances in previous years or the
22 claims of other taxpayers. Many have had income from
23 cancellation of indebtedness. By far the largest
24 number of LITC cases that demonstrate the need for a

1 change in our system are those that involved the earned
2 income tax credit and those that involve self-employed
3 taxpayers.

4 A program requiring preparers of such returns
5 to certify their competence in these areas would be a
6 distinct improvement. Each year at CTLP we receive
7 half a dozen or more phone calls from EITC eligible
8 taxpayers whose return preparers have told them that
9 they cannot file a tax return that year. Or that they
10 cannot claim their children who live with them as
11 qualifying children that year. And the reason for this
12 is because the tax return has been rejected for e-
13 filing. Usually in our caseload more than half the
14 time this is because some other taxpayer has claimed
15 the children and the Social Security number is showing
16 up on a previously filed return.

17 But beyond being bad advice, I don't think
18 there is anyone who cannot file a tax return. There
19 may be people who don't need to. But beyond being bad
20 advice, this practice delays and even prevents eligible
21 custodial parents from taking the steps that are
22 necessary to claim the credit to which they are
23 entitled and to enable the IRS to recover
24 inappropriately issued EITC refunds from ineligible

1 claimants.

2 Additionally, we encounter another half dozen
3 cases a year of disallowance for no other reason than
4 the preparer forgot to include Form 8862 with a return
5 where a taxpayer has had a previous year's disallowance
6 of the EITC.

7 We see similar cases in which tax returns
8 have failed to include income from cancellation of debt
9 or Form 982 to claim the exclusion of COD income. And
10 while it's safe to assume that the taxpayers do not
11 volunteer that they have previously been denied the
12 earned income tax credit or may not volunteer that they
13 had cancellation of debt income, asking about these
14 events, particularly in this economy, ought to be a
15 routine matter for tax preparers.

16 In all of these cases the return preparers
17 cost the taxpayers money that they can ill afford and
18 has wasted valuable IRS resources to the detriment of
19 every taxpayer.

20 A program of return preparer certification
21 that requires preparers of EITC and self-employed
22 taxpayer returns to demonstrate their competence in
23 those areas before preparing such returns would
24 significantly improve compliance on those types of

1 returns.

2 Our conversations with the staff of other
3 LITC programs suggests that our experiences at CTLP
4 with unenrolled commercial tax preparers are typical.
5 For that reason we support the recommendations of the
6 National Taxpayer Advocate regarding the registration,
7 certification, and regulation of unenrolled tax
8 preparers that are contained in the NTA's 2002 and 2008
9 annual reports to Congress.

10 We also support recommendations for the
11 provision of expanded free tax preparation assistance
12 to individual and business filers that are contained in
13 the same reports. Both of these recommendations we
14 think are necessary to ensure that low-income taxpayers
15 receive competent advice and tax preparation service
16 because far too many low-income taxpayers are not
17 eligible for VITA programs in their area or other forms
18 of free tax return preparation particularly because
19 many of these programs are not available for preparing
20 prior year and more complex tax returns.

21 In closing I would like to point out that I
22 have been an unenrolled tax preparer and I have known a
23 fair number of other unenrolled tax preparers over the
24 years. And for the most part we are talking about very

1 conscientious professional people who provide necessary
2 services. A program to register, certify, and regulate
3 such return preparers are the focus that Professor
4 Leslie Brook suggests on enhancing the professionalism
5 of return preparers and recognizing the crucial role
6 they play in our federal system of taxation.

7 Thank you.

8 MR. ERNST: Thank you, Paul and thank you to
9 all of our panelists for your comments. At this point
10 we are going to turn to questions and I think as a
11 format, unless we direct it to one individual we really
12 are looking for anybody who has some perspective that
13 can be useful to the question to share your thoughts.
14 And for that I'm going to first to Commissioner Shulman
15 for questions that may have come up.

16 COMMISSIONER SHULMAN: Great. Thanks, Mark.
17 Thanks to this panel. This is a great panel. You
18 know, hearing from a set of people who are on the
19 frontline of working with taxpayers is incredibly
20 important to us. I often say that one of the reasons
21 that this agency is so important is because we interact
22 with every single adult American every year, every
23 business, every non-profit organization, and, you know,
24 for most people or all people paying the taxes they owe

1 isn't optional. And I think we have a special
2 obligation, as a government, if we're going to have a
3 federal requirement, is to make sure that those with
4 the least resources in society, so low-income
5 taxpayers, non-English-speaking taxpayers, others that
6 have a difficult time accessing the system, get a lot
7 of service and get good service. And so you all
8 represent mostly free service for them. So I thank you
9 for what you do for the system every year.

10 My question is really about, as we've started
11 to delve into this -- these issues -- it's something
12 everybody knew, but we've gotten a lot of comments
13 about if you're thinking about preparers broadly,
14 there's really lots of different differentiation.
15 There's volunteers who serve a broad spectrum of
16 taxpayers. As people have mentioned, because -- at
17 least for individuals -- there's a tax filing season.
18 There's people who have other professions during the
19 year and then become a tax professional and file 20
20 returns, 50 returns, 100 returns. There's people that
21 help their relatives, but there's also paid preparers
22 who are picking up some extra money during tax season.
23 Then there's lots of individuals out there, unenrolled,
24 then there's people who are enrolled with different

1 professional societies, and then there's the big chains
2 and large corporations that do tax preparation.

3 And so my question that I just ask the whole
4 panel is, do you view that basic requirements, whatever
5 we decide whether it's just registration or whether
6 it's registration and pre-testing before you can
7 prepare, whether it's ongoing testing or continuing
8 education, that it should be applied to everyone, or
9 should we be having a set of differentiation and
10 thinking about differentiation and tiers as we move
11 forward?

12 Anyone can answer.

13 MS. MCKINNEY: Well, I'm happy to jump in on
14 that. Having spent a lot of time in Maryland thinking
15 this through and we really did feel when we started
16 looking at it that tax preparers that were covered by
17 another system, you know, CPAs had the Board of
18 Accountancy that they were going to, the attorneys had
19 the Maryland Bar Association, the VITA sites have the
20 SPEC Office from IRS. Those we felt like are the
21 people -- we want to know how they are. We want to
22 know that they're preparing taxes. We want to be able
23 to be in touch with them. But we felt like because
24 they were covered by another system they didn't need to

1 do the competency and continuing education requirement
2 because that's built into their existing systems. But
3 for all unenrolled preparers anyone that fell outside
4 of Circular 230 and, you know, for valuable
5 consideration was doing a tax return needed to take an
6 exam. And I think that that's really important.

7 COMMISSIONER SHULMAN: And, Robin, when you
8 thought this through, you know, one of the issues is,
9 you know, we have this incredibly complex tax law, it
10 changes ever year. You know, the other professions you
11 listed are clearly professions and they've got a
12 standard for people to enter and they police those
13 standards, but there's lots of attorneys I know who are
14 great attorneys, but really don't know how to fill out
15 a tax return.

16 MS. MCKINNEY: Very true.

17 COMMISSIONER SCHULMAN: And so how did you
18 think through those differences that people have a set
19 of professional responsibilities, but it's not
20 necessarily the same set that you need to do this
21 piece?

22 MS. MCKINNEY: Sure. Well a couple things.
23 One is, you know, you have to do continuing
24 professional education for -- to keep your CPA. And

1 for the Bar Association, you know, to be an attorney,
2 you are not mandated to do continuing education,
3 however due to the ethical standards that they are held
4 to, wherever, whatever topic area they're practicing
5 in, it is on them ethically, they're ethically bound to
6 get all of the information that they need in order to
7 best serve the client. I'm in that situation. And
8 having gone round many times with the Bar Association
9 on that issue we felt like it was a sufficient
10 standard. I mean, also I think in terms of what we
11 were seeing on the front lines, those still aren't the
12 folks that we were having the problems with. Because
13 if we have a complaint we talked a lot to the Attorney
14 Generals Office of Consumer Protection, looked at all
15 the complaints that came through for tax affairs, maybe
16 a handful that came through that were covered by either
17 the Bar or the Board of Accountancy, but we had a place
18 to take those back to. For everyone else we had no
19 place to go back to. And I think the continuing
20 education is key because the tax law changes. And we
21 went also back and forth with how much is enough
22 without putting an undue burden of, you know, 100 hours
23 a year that people have to go through. And we felt the
24 eight hours which is one full business day depending on

1 what your hours are, you know, was enough to set --
2 again, we're setting a standard. Because lots of
3 people, if you talk to the professional associations,
4 are actually doing well beyond that. And we really
5 relied on our professional associations to get help and
6 set what wasn't an undue burden.

7 COMMISSIONER SHULMAN: Other folks?

8 MR. WANCHECK: Well, one thing that occurred
9 to me was that -- I think when, you know, this idea of
10 certification was kind of first brought forward several
11 years ago, the National Taxpayer Advocate said, what we
12 want people to do is to look for the equivalent of the
13 Good Housekeeping Seal of Approval when they go to find
14 a tax preparer. And so, you know, one thought was that
15 for those such as enrolled agents, CPAs, attorneys who
16 already have a system rather than necessarily requiring
17 them to go through the same testing procedure that we
18 would hope unenrolled preparers would do is give them
19 the option to do it and to be able to display their
20 certificate since hopefully that's what people will be
21 looking for and it's an additional advantage and
22 demonstration that, you know, these folks have taken.
23 It may be that the enrolled agent exam, you know,
24 provides a walk-in to get the certificate. But for

1 others who don't have an annual exam, that may be an
2 opportunity for them to display that additional level
3 of interest and attention to competence.

4 COMMISSIONER SHULMAN: And I take it from
5 your comments and your testimony that you believe
6 regardless what we do that that should become public,
7 so it's known, so people know exactly what standards
8 you've met and so it helps with consumers making their
9 choice?

10 MR. WANCHECK: Yes, that's crucial.

11 MS. McKINNEY: Absolutely.

12 MS. SPEEDY: Yeah, we talked about that
13 yesterday too in the other meeting. I think that's
14 extremely important that the public know who has passed
15 what level and who is certified or how ever you define
16 it at some point.

17 You know, we readily market the fact that we
18 are IRS certified. We think that's great. We've been
19 doing that for years and we hope that gives the public
20 some reason to be reassured that there's some level of
21 competency by coming to a volunteer site to get
22 service.

23 I would agree with my colleagues about the
24 Circular 230 and other preparers who have other

1 standards because I agree the standards are very high.
2 They have professional ethics that they have to abide
3 by all the time. I would like to confirm that I think
4 all the rest of the individuals need to certify those
5 affiliated with large organizations should also have to
6 go through the same requirements.

7 I'm a strong advocate for annual testing
8 because my thought is why back away from a process that
9 can help a little more define that you have competency
10 in new tax law. And move to a system potentially
11 that's around continuing education that's a little bit
12 harder to get your hands around what are people
13 actually taking? Are they actually being educated?
14 And because you potentially considered moving away from
15 testing, you have no way to measure whether or not they
16 have actually, through this education, gained, you
17 know, a level of competency to do taxes the very next
18 year, particularly with new law.

19 COMMISSIONER SHULMAN: Good.

20 MS. FOX: There have been several secret
21 shopper tax preparation surveys or studies done over
22 the last few years. Community Reinvestment Association
23 of North Carolina and Community Legal Services in
24 Philadelphia did one, Impact Alabama did test shopping

1 recently. In their experience they found 11 of the 13
2 preparers erroneously claimed the earned income tax
3 credit for people who clearly didn't qualify for it.
4 And even in the TIGTA prepared testing, a report done
5 last year, 17 of the 28 preparers filed incorrect tax
6 returns. So obviously there is a quality problem here
7 that needs to be addressed. And I would agree that if
8 professional regulation takes care of the ethics and
9 the good faith obligations of CPAs and lawyers, that
10 that's great. But everybody need training in the tax
11 code and we definitely would support requiring that
12 people who actually prepare the taxes who are not in
13 these already regulated professional categories have to
14 be certified, licensed, some form of accountability.

15 MR. ERNST: Robin -- I'm sorry.

16 COMMISSIONER SHULMAN: Go ahead.

17 MR. ERNST: Robin, I think you were the
18 person who maybe made this point first which was that
19 it was your perception and I'm wondering if everybody
20 else has the same sense that the proliferation of
21 software has made it easy for people to enter this
22 field and that has led to a proliferation of various
23 people who are in the field of tax preparation and
24 access to e-filing kind of adds value to their

1 services. I'm wondering if that leads you to believe
2 there is some particular role that IRS should take
3 relative to the provision of software and its access in
4 the industry, or is that just a tool that, you know,
5 that regulation or registration of a preparer will
6 address directly?

7 MR. HARRISON: It is a problem. It certainly
8 is a problem that we see in the low-income taxpayer
9 clinics. That there is one type of tax return which is
10 prepared by a taxpayer's friend's cousin who has a copy
11 of a computer tax software which allows him or her to
12 do five or six, or how ever many returns they're
13 allowed to do. And those can be really problematic
14 because in the context of where we enter the picture,
15 the taxpayer has already received one or more exam
16 notices may in fact be facing some kind of enforced
17 collection, may be enforced on the doorstep of the Tax
18 Court. And we have to come in and spend the time it
19 takes to go to take the return apart and then
20 reassemble it the way it ought to have been done.

21 I'm not sure that there is a way through
22 return preparer -- paid return preparer licensing to
23 get at that area. But there are problems and it's
24 impossible for me to say how widespread they are or how

1 that affects the IRS's workload. But, yes, I mean,
2 there are problems that arise out of those access to
3 software kinds of situations.

4 MS. SPEEDY: I would absolutely agree with
5 that. My own program it is a pet peeve I stay on
6 frequently that the software emboldens people to think
7 they can go farther than they trained and know how to
8 do. Well-meaning, and well-intended and they do
9 regularly. I'm not quite sure how to fix the problem.
10 I would love to have an easier answer, but it is a real
11 phenomenon. People think, you know, software will do
12 it for me, therefore I can move forward. And I think
13 you have your finger on a real issue. Some
14 certification and acknowledgement as we talked about
15 that people can find out who is certified and who is
16 registered might help try to at least get the ones who
17 are doing it off to the side completely. But it isn't
18 going to stop those who are certified, registered from
19 stepping up with more level and I think that is a real
20 issue.

21 MS. McKINNEY: Well, I actually think the
22 issue is also that there is such a range of different
23 types of software. So if you look at, you know, a tax
24 live, versus a tax lawyer, versus Turbo Tax, some are

1 very interview-based, and, you know, just kind of ask
2 you questions. And so for me when I actually can't use
3 Turbo Tax because I -- they ask me the questions, no, I
4 want to put this in this box, I don't want to answer
5 your question. I know where it goes. And so I think
6 because of that range, that's actually what kind of
7 generates the issue. In some ways it's trying to make
8 it easier for the person to prepare the taxes but then
9 it's almost making you not understand the tax law
10 that's behind it. So I know that some of the softwares
11 do have pop ups that do come up. Are you sure you want
12 to do this? Or, oh, I see that you put in -- you know,
13 put something in this box, do you need to check this
14 box over here too? There are some softwares that do
15 that and I think encouraging more questions to be asked
16 and more checks and balances to be in place, not just,
17 you know, who did you live with and, you know, what
18 else did you do this year?

19 MS. FOX: And the use of software to prepare
20 taxes has also enabled some of the fringe preparers to
21 enter the business. In our report this year we
22 described arrangements where, you know, anybody could
23 sign up to prepare taxes that's supported by some back-
24 office operation somewhere else. But the taxpayer

1 brings their information into whatever retail store is
2 doing that. And that information gets entered there or
3 the information is faxed to some remote preparer who
4 then does this. So having that available is not just a
5 matter of individual tax preparers using a software
6 feeling they can go further than they should. But it
7 also enables the proliferation of tax preparation
8 across the counter at these other outlets.

9 And I don't know if we're going to talk about
10 who gets on the authorized e-file provider list, but if
11 you go back and look at that, you will find car title
12 lenders, furniture stores, U-Haul stores, used car
13 dealers. I'm not sure about the Super Lube outlet in
14 Illinois why they qualify to be an e-file --

15 (Laughter.)

16 MS. FOX: -- provider -- travel services, you
17 know, even in the area where you do know who is in the
18 system, you've got an awful lot of folks that don't
19 strike you as a professional tax preparer.

20 MS. SPEEDY: I was going to use my Shell gas
21 station. They had e-file services at the Shell gas
22 station.

23 MS. FOX: Well, the GAO had the picture of
24 the furniture store where you come in and get your

1 taxes -- oh, excuse me, the shoe store, and they'll
2 give you a free pair of shoes, you know, if you come
3 get your taxes done there.

4 (Laughter.)

5 MS. FOX: It sort of undermines the public
6 trust in the integrity and professionalism of tax
7 preparation, especially since so much personal
8 sensitive information is involved in this transaction.

9 MS. HAWKINS: Jean Ann, that's a perfect
10 transition for my question.

11 MS. FOX: Okay.

12 MS. HAWKINS: I've listened to all of you and
13 I think you're pretty much unanimous in feeling that
14 there needs to be some kind of educational process that
15 is an ongoing educational process that creates a degree
16 of competency in terms of what people put on the tax
17 return. Coming from where I'm at, I'm concerned about
18 the ethical competency, if you will, of these people.
19 I was particularly thinking Jean Ann was talking about
20 the problems with the preparers taking refunds or using
21 refunds to pay themselves because they can do it now
22 through the electronic process, under Circular 230, as
23 you may know, we have a provision that prohibits and
24 considers it to be unethical conduct for a preparer to

1 negotiate a refund check. While in the technical world
2 of lawyering, that wouldn't be sufficient to go after
3 someone who is taking a refund through an electronic
4 process.

5 So as I think this through and how it
6 impacts, I mean, the first real question is, is the
7 high standard that someone identified as Circular 230
8 the right standard to lay over all of these other paid
9 preparers? Should there be -- is there such a thing as
10 a minimum standard of ethics with Circular 230 being a
11 somewhat elevated standard that would continue to apply
12 to the practitioners we now regulate with some
13 different standard, or do you see Circular 230
14 embracing all of this community?

15 MS. SPEEDY: Well, another standard does
16 exist now for the volunteer which is the standard of
17 conduct which I think is a next-tier down type of
18 standard. Not being well-versed in Circular 230
19 because of the world that I work in, it's hard to say
20 that that would be perfectly applicable. Sort of the
21 devil is in the detail. But I do believe there's a lot
22 of gradation there and that a lot of just what you
23 talked about would be a critical component of ethics
24 that should be applying to everybody, period. Whether

1 or not everything in there fits perfectly, I'm not
2 sure. So I think, you know, the standard of conduct
3 certification that volunteers sign now could pull up,
4 although we can't do RALs anyway, or we don't. But I
5 do think that Circular 230 probably has a lot of other
6 considerations that very much need to be applicable to
7 everybody.

8 MS. HAWKINS: And do we test for this? Do we
9 teach for this?

10 MS. SPEEDY: I think you need to. You know,
11 that they answer, how do you hold somebody accountable
12 maybe to what they had known and how many might have
13 done it right on the borderline issues, not the clearly
14 devious issues perhaps if they had known better. So I
15 think you need to.

16 MR. WANCHECK: Yeah, I was thinking exactly
17 that thing that there are specific, you know, ethical
18 procedures that lend themselves to, you know, how do
19 you handle the mechanics of a refund; can you do this,
20 can you do that? That lends itself to a test question.
21 That doesn't ensure that the practitioner necessarily
22 will adhere to the ethic later down the line, but then
23 you have some enforcement capabilities after that.

24 MS. FOX: Yes, but if you take the financial

1 incentives out of wanting to handle the refund, that
2 would help. Now, some of these programs advertise, we
3 provide you the check stock so that when you
4 electronically, you know, file this return for
5 somebody, then you get to print out the check and/or
6 load it onto the debit card. So that the intermediary
7 controls the receipt of this money before they hand it
8 over. And, you know, the IRS has rules about not
9 setting the price of the tax prep depending on how much
10 money we can get back for you, but allowing tax
11 preparers to sell financial products where they earn
12 extra for it. And, of course, you know people are
13 going to take a loan if it's larger refund compared to,
14 well, maybe I won't if it's a small refund. So there's
15 so many financial incentives to inflate the size of the
16 refund so that you can sell people the extra product
17 that it undermines your rules against pricing based on
18 the size of the refund.

19 MR. HARRISON: I think I wouldn't immediately
20 load it to say that all of Circular 230 should be
21 imposed upon return preparers. I do -- you know, I
22 think most of the low-income taxpayer clinicians would
23 agree with me that preparers should not be able to
24 access taxpayer refunds. That they should go to

1 deposit vehicles or other instruments where the refund
2 comes from the IRS to the taxpayer.

3 Every year we see in LITC work some
4 arrangement for tax preparation which has basically
5 bilked taxpayers out of their refunds by having them
6 deposit into an account that the taxpayer has no access
7 to. Sometimes whole communities are preyed upon,
8 frankly, immigrant communities and other communities
9 where the taxpayers themselves don't speak English and
10 certainly speaking English is no real advantage in
11 reading the instructions for how to fill out your 1040
12 anyhow.

13 (Laughter.)

14 MR. HARRISON: But --

15 MS. HAWKINS: OR the EITC form.

16 MR. HARRISON: Several weeks ago --

17 COMMISSIONER SHULMAN: You need to speak tax.

18 MR. HARRISON: Yes.

19 (Laughter.)

20 PARTICIPANT: IRS.

21 MR. HARRISON: Just by way of an example
22 which I think is in the more egregious side. Several
23 weeks ago a taxpayer called us from the southern part
24 of Virginia. This gentleman is functionally illiterate

1 and was receiving collection notices to repay earned
2 income tax credit that he had been disallowed. He had
3 taken a RAL, of course, and he already had the money,
4 so he was in a position of having to take it back. He
5 had no idea that he had ever claimed the earned income
6 tax credit. He had no idea that children's names were
7 being -- he's a single gentleman that has no children
8 and his preparer had filled out returns giving him his
9 refund in cash. So that instead of the \$4 or 5,000
10 that the IRS refunded on that tax return he got, you
11 know, several hundred dollars, basically what he would
12 have got had he got his withholding back. And we can
13 only assume or infer that the tax preparer kept the
14 rest of that refund. And I think it would be almost
15 unanimous if you came to an LITC conference in December
16 and asked what should happen to tax refunds, is they
17 should go from the Service to the taxpayer in whatever
18 way. I think the taxpayer has -- the National Taxpayer
19 Advocate has suggested cards that could be mailed to
20 the taxpayer, a set value kind of card that could be
21 then used as a debit card by the taxpayer.

22 MS. MCKINNEY: I have one sentence on that.

23 MR. ERNST: Sure.

24 MS. MCKINNEY: With ethics comes

1 accountability. And I think, you know, if you're going
2 to set the standard, it's how are you holding people to
3 it? I mean, that's really -- to me that's almost the
4 hardest part. It's figuring out, you know, what within
5 Circular 230 already exists for that accountability
6 structure.

7 MS. SPEEDY: We've talked about how the e-
8 filing pushes sort of the fringe industry and the RALs
9 and get your biggest refund here. But one issue that's
10 always struck me with taxes, you know, if you go to the
11 doctor and they do something wrong, you know, you
12 scream, you go to the board or you tell everybody. But
13 when your taxes are done wrong and you find out later,
14 there's this issue about, I'm going to get caught up in
15 this web that as a taxpayer that is the burden or the
16 responsibility of somebody else. So I think there's a
17 lot of nonreporting that goes on of people who haven't
18 met competency levels and who are doing things
19 completely out of balance that I think undermine some
20 of the credibility of the industry as well. Because,
21 you know, if I raise my hand I'm going to owe a lot of
22 money and there's a lot of concern about that. So I
23 think that kind of holds back our ability to make sure
24 we have a good group of individuals out there doing

1 taxes.

2 MR. HARRISON: You know, if I might, one of
3 the things that a standard of practice or an ethical
4 standard imposes on every profession is the notion of
5 the duty of competence. That you only do what you know
6 you are able to do. I think that really is -- when I
7 go to outreach sessions with taxpayers and they ask
8 about choosing return preparers, I generally say that
9 the only two questions you should ever have to ask
10 about a tax return preparer is, are they going to do it
11 right, and how much is it going to cost? And yet if
12 you watch television what is advertised is all about
13 the refund, not about the correctness of the tax return
14 which -- and I think once taxpayers get involved in
15 something like an EIC disallowance or an examination of
16 a tax return they realize how much time that takes out
17 of your life, you know, just to -- even when you're
18 right.

19 MR. ERNST: Well, we could go on much longer
20 than we have time for and I'm going to unfortunately
21 going to have to call time on this. I want to thank
22 our panelists for participating this morning and your
23 insights and we look forward to continuing to dialogue
24 with you as well as others. As we continue to do this

1 work.

2 Procedurally we are going to take a brief
3 break. I would guess it's going to be about ten
4 minutes or so. And have the new panelists join us and
5 then we will get started again. So, please be back
6 here with us in about ten minutes. Thanks.

7 (Brief recess taken at 10:20 a.m.)

8 MS. HAWKINS: Hi, welcome back. We're just
9 doing a little housekeeping up here with the water
10 jugs.

11 You've heard Mark describe the format so I'm
12 not -- I don't think your short-term memory is that bad
13 that I'm going to have to remind you. Everybody is
14 going to talk for five minutes and then we are going to
15 ask them probing questions.

16 So I will just run the group down. They are
17 going to present in the order that I introduce them and
18 then as they speak I will give you a bit more of their
19 backgrounds. To my furthest right is Frank Degen.
20 Frank is currently the chair of the Government
21 Relations Committee for the National Association of
22 Enrolled Agents.

23 Next to Frank is Mike Dolan. Mike is
24 currently the Chair of the IRS Practice and Procedure

1 Committee for the America Institute of Certified Public
2 Accountants.

3 Next to Mike is Armando Gomez. Armando is
4 Vice Chair, Government Relations for the Tax Section of
5 the American Bar Association.

6 Jim Nolan is next to Armando and Jim is with
7 the -- is the President, pardon me, of the National
8 Society of Accountants.

9 And last, but certainly not least, is Larry
10 Gray, the Government Affairs Liaison from the National
11 Association of Tax Professionals. These five gentlemen
12 represent a substantial piece of the constituency
13 associated with my office. They certainly do not
14 represent the entire constituency of tax preparation.
15 Larry and Jim both represent what I would call
16 potpourri organizations that contain both Circular 230
17 practitioners who would be accountable to my office as
18 well as unenrolled, unlicensed preparers who have opted
19 to distinguish themselves with additional training and
20 certification in sort of a voluntary way.

21 So I'm looking forward to hearing what each
22 of these gentlemen have to say about what particularly
23 my office should be doing, but certainly the Internal
24 Revenue Service as a whole should be doing with respect

1 to this whole community.

2 Our first speaker will be Frank Degen. Frank
3 is an enrolled agent, self-employed in New York. He
4 has the distinction which always impresses me as a
5 former litigator of being a non-attorney who has passed
6 the exam to appear in the United States Tax Court which
7 is no easy feat.

8 He's also a current member of the Internal
9 Revenue Service's Advisory Council and is chairing it
10 this year. He has many other distinguishing features
11 contained in his bio, so I will refer you to those and
12 I won't take any more of his five minutes by talking.
13 So, Frank.

14 MR. DEGEN: Thank you, Karen. Good morning,
15 everybody. I am speaking today on behalf of the
16 National Association of Enrolled Agents. NAEA
17 represents the interests of more than 40,000 enrolled
18 agents and is the only organization focused solely on
19 EAs. Today's topic is both welcome and timely.

20 To everything there is a season and this
21 enrolled agents believe is the season for providing
22 greater oversight of tax return preparers. The facts
23 and figures are well told, but boil down to this: The
24 portion of the tax gap attributed to reporting

1 noncompliance is \$285 billion. In the 20-odd years
2 since our last major tax reform the tax code has become
3 horrendously complex. Roughly 60 million tax returns
4 are completed by paid preparers.

5 Enrolled agents have first-hand knowledge of
6 too many Americans ill served by charlatan preparers.
7 Preparers unwilling or unable to interpret the
8 increasingly convoluted tax code, preparers
9 contributing to this nation's staggering tax gap.

10 NAEA has been pushing for vigorous oversight
11 of all return preparers long before most in this room,
12 save the National Taxpayer Advocate, thought it even
13 important or possible. While we are not wedded to a
14 legislative solution, we have urged federal tax law
15 writers to craft fair, yet strong legislative
16 proposals. Why has NAEA spent so much blood and
17 treasure on return preparer oversight, it is certainly
18 not to put competitors out of business. Candidly,
19 between the code's increasing complexity and the
20 Service's stepped up compliance effort there is more
21 than enough business to go around.

22 We are driven by the fundamental truth that
23 Americans who pay a professional ought to get a
24 professional return. We believe, to meet that end,

1 federal policymakers should provide national standards
2 for all paid return preparers.

3 To be blunt, it is the wild west out there
4 right now and we need to bring the sheriff back to
5 town.

6 (Laughter.)

7 MR. DEGEN: EA's believe that in order to be
8 successful, any return preparer program must
9 significantly increase taxpayer access to competent and
10 ethical tax preparation services.

11 More practically, we suggest three pillars
12 for any new oversight program. Number one, competency.
13 Taxpayer would have a reasonable expectation of
14 competency if preparers are subject to initial testing,
15 continuing education, background checks, and strong
16 ethical standards. This is not a new idea. Both
17 Representative Basera and Senator Bingaman have
18 introduced bills in prior Congresses embracing this
19 concept. The only basis for grandfathering, if any, of
20 unenrolled preparers is passage of a competency test
21 that the Treasury Department deemed comparable. The
22 absence of an initial competency test could place
23 taxpayers in a worse position than currently exists.
24 As taxpayers will assume a preparer holding a federal

1 license has at least demonstrated minimal competency.

2 Pillar number two, centralization. Any
3 program should build on the existing regulatory
4 framework and consolidate administration enforcement
5 under the Office of Professional Responsibility. Why
6 construct a parallel regulatory framework an
7 enforcement entity for different groups of paid
8 preparers. Centralization would create a variety of
9 benefits. One ethics code, coordinated exams that
10 would allow for advancement within the profession and
11 standardized continuing education requirements all
12 administered under the already existing system.

13 We strongly oppose the establishment of a
14 separate IRS division to provide oversight to some but
15 not all preparers or any type of quasi-governmental
16 entity to oversee the newly regulated.

17 Consolidation within the agency should inform
18 -- excuse me, should ensure uniformity of standards and
19 enforcement for all return preparers and necessary
20 privacy for taxpayer information.

21 And pillar number three, adequate resources.
22 The most pragmatic element for any program is adequate
23 resources for administration promotion and enforcement.
24 It is not unreasonable or unusual for professionals to

1 pay for their licenses. Attorneys pay for their
2 licenses. Certified public accountants pay for theirs
3 also. And EAs pay for theirs too. OPR should retain
4 all registration fees for administration of the program
5 including policing all practitioners and preparers
6 under their jurisdiction.

7 Given the newness of the program, the IRS
8 must also be charged with raising awareness among the
9 general public. Taxpayers must understand the
10 importance of paying only licensed individuals for tax
11 preparation as well as the requirement for paid
12 preparers to sign returns.

13 NAEA commends Commission Shulman for giving
14 this issue such prominence. If we succeed in providing
15 strong commonsense national return preparer oversight,
16 we will protect taxpayers, elevate the profession, and
17 level the playing fields for those currently subject to
18 Circular 230. These are good goals, these are laudable
19 goals, these are achievable goals. Let's us work
20 together and NAEA certainly will be part of that to
21 achieve those goals.

22 Thank you.

23 MS. HAWKINS: Thank you, Frank. You remind
24 me in your speech that I am doing a program later in

1 the fall and I've been told that the title is, "There's
2 a New Sheriff in Town."

3 (Laughter.)

4 MS. HAWKINS: So I'm thinking about getting a
5 big hat and some boots to walk in.

6 Frank is a member of the only organization
7 that is currently -- for those of you unfamiliar with
8 this area -- that is currently tested and licensed by
9 the Internal Revenue Service. So his group in
10 particular is an important group for us to be hearing
11 from and I thank you for your comments.

12 MR. DEGEN: Thank you.

13 MS. HAWKINS: Our next speaker is Michael
14 Dolan. Mike is currently with KPMG in their Practice,
15 Procedure, and Administration Group as the National
16 Director of IRS Policies and Dispute Resolution. He's
17 got a long distinguished career with the Internal
18 Revenue Service, so he's not unfamiliar with this
19 agency that he's about to give advice to. He spent 28
20 years with the IRS, the last six of which he was one of
21 the Deputy Commissioners and for two extended periods
22 of appointment, he served as Acting Commissioner. And,
23 again, as with Frank, he's got an extensive bio in the
24 materials and I would commend it to you.

1 Mike.

2 MR. DOLAN: Thanks, Karen. And thanks for
3 having us today. And I'd maybe start where Frank left
4 off, Doug, in complimenting you on launch of the
5 undertaking and asking people as senior as Mark and
6 Karen to go point on it because we do think it's
7 critical and we also say right up front, we're prepared
8 to partner with you on it because of its significance.

9 The other thing we would note is also the way
10 that you have insinuated into the IRS's strategic plan
11 the significance of the partnership between the
12 practitioner preparer world and the IRS in terms of
13 advancing long-term compliance. So I think the
14 spectrum, at least we see, or the vision we see is that
15 you've got a pretty holistic approach to this as well
16 as your opening comments where you basically have
17 confirmed that you've got an open mind as to how to
18 solve some of the problems that were detailed in the
19 first panel and no doubt we'll talk some about today.

20 Our 350,000 members may be as intuitive to
21 many practice at the federal, the state, the
22 international level. They help clients prepare
23 millions of tax returns. And it's kind of from that
24 perspective, a reasonably broad area of practice that

1 we're going to offer a couple of comments that we will
2 today.

3 We've had a variety of conversations over the
4 years with both the Service and with some of the
5 congressional committees about tackling this topic. As
6 Frank says, it's not a new topic, it's been around and
7 it's gone through various iterations. And we are
8 guessing that in addition to what we have a chance to
9 add to the mix today that on an ongoing basis we'll be
10 able to get involved with you on some of the more
11 granular things as they begin to emerge.

12 A couple things that are unclear for us. We
13 unequivocally support the notion that you've got to get
14 your arms around the universe. And if it is in the
15 form of some sort of a universal numbering system, some
16 way of knowing what the preparer community is. It
17 seems to us that's a sort of an essential, unavoidable
18 way to start. Beyond that I think we are intrigued by
19 the notion, Karen, and this may not -- you may or may
20 not like this, but we sort of think that it's a tough
21 concept to think of preparing tax returns not amounting
22 to practice before the IRS. And so whether that brings
23 with it the entire envelope of Circular 230
24 implications or not, we think at some level Circular

1 230 ought to be an orientation point for the
2 preparation of tax returns.

3 And we think between the Circular 230
4 authorities that you currently have and the panoply of
5 individual IRC penalties, that you've got a fair amount
6 of authority, a fair amount of discretion and I guess
7 one of the things that we would urge is that that be
8 mined before we put a lot of new things on the books
9 that might take us to places intended and unintended.
10 And I guess if there is a general theme of my comments,
11 it would be sort of in that direction. We think the
12 undertaking is -- I mean, you can't not listen. You
13 can't listen to that first panel and not know there are
14 issues out there be addressed. Some of those issues
15 clearly come on the skin of the competency of
16 practitioners. Others have it come in the integrity of
17 people holding themselves out. And I think the
18 challenge is to address solutions -- to design
19 solutions that kind of get at not only the communities
20 represented in the first panel, but some of the
21 communities that represent our client base.

22 And what we would say, at least in part, is
23 that to build solutions around the EITC and RAL problem
24 and apply them, explode them then generically are

1 likely to get us to places that will be problematic to
2 a fairly significant part of the practitioner
3 community. Those two always draw the heat. They are
4 obviously issues for the reasons discussed in the first
5 panel and others but there are an awful lot of
6 professional tax return preparers who don't prepare any
7 EITC, don't associate with any RALs and we would not
8 like to see a system designed to address that problem
9 end up with a link span that ends up having unattended
10 consequences.

11 I guess the other thing we would say is our
12 profession, like some others, is one where the
13 professionals have met a rigorous academic standard,
14 they've passed a substantial examination by a state
15 licensing authority. They typically maintain a very
16 active CPE requirement usually a condition of
17 maintaining their license as well as subscribe to the
18 Circular 230 requirements. And so, again, this is not
19 about saying, aren't we special people. But it is
20 about saying that we would urge any sort of overarching
21 adoption of a certification regime, of a testing
22 regime, of a specified CPE regime to be clear about not
23 superimposing an additional set of rigors on folks who
24 already have maintained -- achieved and are willing to

1 maintain a professional competence.

2 I guess the other thing that I would say is
3 that when we talk even about types of returns, and I
4 think some of the people on the first panel made this
5 pretty clear, I see it as a formidable challenge to try
6 to decide how you would go about certifying competence.
7 I mean, do you do it by return? I mean, there's one
8 kind of 1040 and there's another kind of 1040. There's
9 a 1065 that I and my bother-in-law might file if we
10 went and bought a piece of beach rental property.
11 That's a wholly different kind of 1065 than somebody
12 who files returns for publicly traded partnerships.
13 1120s, so there's a vast spectrum against which the IRS
14 would be attempting to evaluate and express opinions on
15 competence which doesn't say it can't be done, but it's
16 why I come back to Doug's opening comment about, let's
17 get them all out there and let's not jump too quickly
18 to something that on the surface sounds like, well, of
19 course, the tax collector ought to set a standard and,
20 of course, they ought to test to it and, of course,
21 there ought to be a seal of approval. Because while
22 all those things have some sort of surface appeal to
23 them, they run the risk at some level of
24 misrepresenting reality, of giving a confidence,

1 perhaps beyond the IRS's ability to ascertain. And,
2 so, again, our view is, let's look at all the options.
3 We want to be engaged in the weeds with you on things
4 that advance both our goals which is ensuring that
5 American taxpayers have access to competent and ethical
6 preparers and our principal plea is, let's do that
7 carefully, deliberately, let's not create a one-size-
8 fits-all.

9 Some of us on this panel have spent hundreds
10 and thousands of hours reacting to a set of regs that
11 came out under 7216 last year that were likely designed
12 in the inventor's eyes to address a kind of preparer
13 that hangs a shingle, does a few hundred returns and we
14 worry about what they do with their return information.
15 Other kinds of professionals have spent hundreds of
16 hours trying to figure out how rules written there can
17 properly be accommodated inside of service models that
18 are entirely different where we maintain an ongoing
19 relationship with the client.

20 (Applause)

21 So, again, we compliment you for -- it wasn't
22 designed to be an applause line, but we compliment you
23 for the undertaking. We think you've got considerable
24 authority to pull it off. We encourage you to stay the

1 course that Doug described in his opening of seeing all
2 the issues and then isolating solutions for the real
3 issues that you want to address as opposed to the more
4 generic.

5 Thanks.

6 MS. HAWKINS: Okay. Thank you very much,
7 Mike, that was very, very helpful.

8 Our next speaker is Armando Gomez. Armando
9 is a tax lawyer extraordinaire and has a very broad
10 practice at Skadden Arps where he does both substantive
11 tax transactional work as well as tax controversy. And
12 I see from his bio even dares to dabble in some
13 criminal tax matters once in a while. He's been very
14 active with the American Bar Association holding a
15 number of positions, the most recent of which is as his
16 chairship or vice chairship in government relations.

17 So, without further adieu, Armando.

18 MR. GOMEZ: Thank you, Karen, and
19 Commissioner and Mark. I appreciate the opportunity to
20 be here today to speak on behalf of the American Bar
21 Association Tax Section. I put in a detailed statement
22 and I do need to give a disclaimer that I am speaking
23 on behalf of the tax section and what I'm saying has
24 not been approved by the House of Delegates or Board of

1 Governors of the American Bar Association.

2 Three main points which are similar to what
3 you've already heard. Number one, we believe that
4 there is a compelling need for performance standards
5 for paid return preparers. And encompassed within that
6 both minimum qualifications as well as some type of
7 mandatory continuing education.

8 Second, we agree that there should be a
9 uniform system of identifying paid preparers. Both to
10 be able to track who is qualifying with what we
11 recommend in terms of minimum qualifications and
12 continuing education, but also for the Service to be
13 able to have better ability to identify paid preparers
14 where there are problems, to perhaps target education
15 and awareness of developing issues or changes in the
16 tax law, particular types of preparers, all of that are
17 things that come out of a uniform numbering system.

18 And third, and certainly not least, it's
19 critical to have a strong and continued enforcement
20 program to ensure compliance with the return preparer
21 rules.

22 And let me just say that all of this, we
23 believe, can be done, should be done administratively.
24 As Mike said, you have plenty of authorities in terms

1 of existing requirements under the code and regulations
2 for standards for return preparers, requirements that
3 return preparers sign the returns, put a number on the
4 returns. You have authority, we believe, under Title
5 31, for your office, Karen, to regulate people who are
6 practicing before the IRS and so all of these are
7 things that we applaud you for considering and we hope
8 that you will move forward with.

9 In terms of the need for preparer standards I
10 think you heard from the first panel many of the
11 reasons why it's important. I have to give my plug
12 that one of the long-standing goals of the tax section
13 has been to advocate for simplification of the tax
14 laws. Frankly I wish that people didn't need to pay
15 preparers. Unfortunately, even I need one. And so the
16 complexity of the law is such that for some time we're
17 going to be in a system where we have paid preparers
18 preparing the majority of returns.

19 As you've heard, paid preparers are not
20 subject to any minimum educational or competency
21 requirements. By contrast attorneys and CPAs have to
22 complete the prescribed course of study and pass state
23 licensing exams. Enrolled agents who don't have years
24 of experience like Mike have to pass the written exam.

1 And having looked at it once, I sort of shudder at the
2 requirements. In addition attorneys and CPAs and
3 enrolled agents are subject to ethical requirements.
4 We certainly take those -- you know, very much to heart
5 and in most jurisdictions, but not all, subject to
6 continuing education requirements.

7 We are also subject to oversight by state
8 bars, by county boards, by the Office of Professional
9 Responsibility. And when you stack that against the
10 unenrolled paid preparers, there are the provisions
11 under the code and regulations for enforcement, but
12 that's it. And there are so many that in our view you
13 need something more to make sure that the quality of
14 tax return preparation increases.

15 And it's not just because, you know, there
16 are some paid preparers out there who are unscrupulous
17 and you're always going to have people like that out
18 there. But you also have the problem of many of the
19 people who turn to paid preparers are those who least
20 understand the tax laws, those for whom English is not
21 their language, those for whom they don't have ready
22 access to electronic filing alternatives like the
23 software programs you can buy in the stores. And for
24 those reasons we support efforts to establish minimum

1 qualifications.

2 We would encourage an examination to test
3 technical knowledge. But we would -- we would
4 encourage you to consider that regulated professionals,
5 meaning attorneys, CPAs, enrolled agents who have
6 already demonstrated competence ought not to be subject
7 to a new examination.

8 We might also suggest that paid preparers who
9 have already completed competency exams in states such
10 as Oregon which has got one of the model programs out
11 there, you know, also might be deemed to have
12 demonstrated minimum competence.

13 Continuing education is critical. Like I
14 said, you know, most lawyers are subject to mandatory
15 continuing legal education, but it depends by state.
16 I'm licensed in two states. One requires it and one
17 doesn't. And so to the extent that there are regulated
18 professionals already complying with continuing
19 education requirements, we would see no need for more.
20 But for those who aren't, plus the unenrolled paid
21 preparers, we would encourage there to be some minimum
22 requirements.

23 The numbering program helps track all that.
24 One concern that I have from one of the comments that I

1 heard on the panel this morning, I would be very wary
2 of describing it as a "credential". You know, a taxi
3 driver needs a license to operate a cab, doesn't mean
4 he's a good driver.

5 You can issue a registration number because
6 people have to have one in order to be able to hold
7 themselves out, collect money in order to prepare tax
8 returns doesn't mean that they are a great tax return
9 preparer. And I'd very concerned about holding it out
10 as a credential.

11 Enforcement is critical and through
12 enforcement and a numbering system, we would hope that
13 the Service would have resources to evaluate data from
14 paid preparer returns to identify trends. And also to,
15 you know, you could use that to target education as
16 well as enforcement efforts.

17 A word about Circular 230. We certainly
18 understand that mere return preparation has long been
19 interpreted as not being practiced before the IRS. On
20 the other hand, if I write an opinion or a memo to a
21 client, and that's all I do in a single year, and that
22 document never sees the light of day other than my
23 clients having looked at it, I have practiced before
24 the Internal Revenue Service under Circular 230. How

1 it is that somebody who opens up a shop and prepares
2 hundreds of thousands of returns and is not subject to
3 regulation just doesn't make any sense.

4 Again, we think that all of this can be done
5 administratively. There certainly are proposals out
6 there for legislation that we've seen. There's also
7 proposals for new legislation we've heard or expanding
8 penalties. We would encourage the Service not to
9 pursue expanded penalties at this time. I think
10 there's plenty of reports out there suggesting that
11 there's just not a lot of data. There are plenty of
12 rules on the books. You know, we would like to see the
13 recommendations that we suggest today be put in place,
14 collect some data and then certainly to the extent that
15 there are gaps, you know, work with Congress to address
16 those gaps.

17 The last thing that I will mention is we
18 certainly understand that doing all this requires
19 resources. Certainly this is a time where not just our
20 government, but everyone in the country is struggling
21 and we understand resources are tight. But we do think
22 that the benefits in terms of improving the quality of
23 tax preparation hopefully decreasing the need for
24 enforcement resources all would help justify the cost

1 benefit in terms of the investment required to make all
2 of this work. To the extent that testing the
3 registration might accompany with it modest fees,
4 that's understandable, but we would certainly hope that
5 they wouldn't be set at a place that they would, you
6 know, deter entry into the field. Because there are,
7 you know, many very dedicated paid preparers out there
8 who are providing a very important service to the
9 system and certainly wouldn't want any of these
10 recommendations to take away from that.

11 So that will conclude my remarks. Again, I
12 did put in the detailed statement and happy to take
13 your questions.

14 MS. HAWKINS: Thanks very much, Armando, it
15 was very helpful.

16 Our next speaker is Jim Nolen. Jim is
17 sitting up here as President of the National Society of
18 Accountants, but I see a whole string of initials after
19 his name, one of which is enrolled agent. He's been
20 practicing for more than 30 years in Oklahoma. Has an
21 extensive background in community service and serving
22 on various organizations that are associated with
23 quality tax preparation and tax consulting.

24 So, with that, Jim, if you would let us hear

1 what you have to say.

2 MR. NOLEN: Thank you. Like the others, I
3 would like to thank you for the opportunity to
4 participate in this forum and share reviews regarding
5 the possible regulation at the federal level of tax
6 preparers.

7 In the capacity as President of the National
8 Society of Accountants, I would like to make everyone
9 of you aware that our association is comprised of
10 certified public accountants, enrolled agents, licensed
11 public accountants, other licensees of state boards of
12 accountancy, tax practitioners who are licensed by
13 state agencies and accountant and tax practitioners who
14 hold credentials from nationally recognized
15 credentialing bodies.

16 In short, NSA represents accountants and tax
17 professionals who serve Main Street rather than Wall
18 Street. The members of NSA as well as the other
19 professional societies have long recognized that if you
20 are going to hold yourself out as a professional in the
21 tax field it takes substantial preparation. Given that
22 a client's financial well being is sometimes at stake,
23 it is not unfair to have minimum standards or require a
24 test.

1 In fact, NSA's bylaws require a professional
2 credential as a condition of continuing membership.
3 Because the tax preparers' ultimate and intimate
4 detailed knowledge of a client's financial situation
5 and the ability to impact the financial situation
6 through the preparation of tax return filing, NSA has
7 long supported registration or licensing of tax
8 preparers. Registration or licensing would provide a
9 means of allowing the current and potential clients to
10 know that the preparer meets whatever minimum standards
11 are set to be qualifying for the profession.

12 One of the minimum standards should be
13 successfully passing a qualified examination to test
14 basic knowledge any preparer should know. There are a
15 number of practitioners out there who we feel have
16 earned a waiver from this examination requirement.
17 These are tax practitioners who have already
18 demonstrated their competence by passing a valid
19 examination. For example, NSA recognized in the early
20 1970s that some practitioners had no test available to
21 them if they did not want to become an enrolled agent
22 or a certified public accountant or an attorney. As a
23 result NSA formed the Accreditation Council for
24 Accountancy and Taxation to offer other credentials.

1 ACATs examinations are administered by a subsidiary of
2 the National Association of State Boards of
3 Accountancy, the same group that administers the CPA
4 examination.

5 ACATs examinations are psychometrically
6 validated and we are certified by the National
7 Organization of Credentialing Agencies.

8 I am sure that other organizations may have
9 or will develop valid examinations as well. We believe
10 it appropriate that an examination waiver of
11 examination requirements be provided to any
12 practitioner that passes or has passed such
13 examinations as ACAT offers. Of course the IRS should
14 have oversight to audit these examinations to ensure
15 that they meet the objective standards.

16 Similarly examination waivers should be
17 granted to any individual holding a license from a
18 State Board of Accountancy. These practitioners have
19 likewise demonstrated a level of competency that is
20 based on long-established regulatory standard of
21 education, experience, ethics, and examination. Every
22 state accounting regulatory scheme also requires
23 continuing education as a condition for renewal of
24 licenses. Some states have already gotten into the

1 licensing of tax preparers and we feel they should be
2 exempt as well.

3 I would like to note that 17 years ago I
4 worked with the Chairman of the Board of Accountancy in
5 Oklahoma on trying to get Oklahoma to regulate tax
6 preparers. Unfortunately we weren't successful there.
7 But there are some very good state models out there.

8 The Office of Professional Responsibility of
9 the IRS has extended Circular 230 privileges to public
10 accountants in a number of states. The licensed public
11 accountant like their CPA counterparts are subject to
12 regulation and supervision by the State Boards of
13 Accountancy and must meet continuing education.
14 Therefore, we feel that they should also be exempt from
15 additional examinations.

16 We support a requirement for continuing
17 education to ensure continuing competence with respect
18 to basic tax knowledge, especially given our ever
19 changing tax code. All of the education recognized by
20 NSA for CPE purposes must meet the standards
21 established by NASBA. This is the same standard
22 recognized for the purposes of maintaining a CPA
23 license and ensures the education taken to be of
24 sufficient professional quality. We recommend that an

1 education required for taxpayers should also meet these
2 minimum professional standards. Hours for the sake of
3 hours are worthless. The education must be of value
4 that is being offered up front.

5 NSA believes that an orderly phased
6 implementation of registration and/or testing over a
7 two- to three-year period is mandatory. A shorter time
8 period would likely lead to unnecessary disruption of
9 the filing process.

10 Further, as part of this implementation a tax
11 preparer who initially filed a return should be allowed
12 to continue to participate in the disposition of that
13 return until it is accepted and closed by the IRS even
14 if that is a multi-year process and even if any new tax
15 preparer rules are made final during that period. We
16 also support the establishment of an administrative
17 entity to oversee tax preparers to ensure that any fees
18 paid by preparers are used for regulation and to
19 educate the consumer.

20 Absent a robust consumer education program,
21 we are concerned that those individuals who do not
22 comply with the current requirements will not comply
23 with future requirements either. A key to bringing
24 those individuals into the tax preparer system and the

1 best way to do that is to ensure that they suffer
2 significant financial harm if they willingly flout the
3 law.

4 Taxpayers must also be educated by a number
5 of means to understand that a paid preparer must sign a
6 return. It should also be possible to work with
7 software developers to get them to automatically
8 disable software after a set number of primary Social
9 Security numbers has been changed within the program,
10 it just automatically locks up on them. They cannot
11 use that one program for \$49.95 to produce 500 returns.

12 In closing, our position can be summarized as
13 a minimum competency exam at the front end along with
14 registration, required continuing education and
15 significant penalties for nonregistrants coupled with
16 aggressive enforcement by the Service is the pro active
17 path and the path NSA advocates.

18 And, Ms. Hawkins, I'm from Oklahoma and if
19 you come to Oklahoma we will get you outfitted with the
20 proper pair --

21 (Laughter.)

22 MR. NOLEN: -- of boots, a lasso and I might
23 even be able to get the Governor to extend to you the
24 rank of honorary territorial marshal.

1 (Laughter.)

2 (Applause.)

3 MS. HAWKINS: Well, I think the only thing
4 that you mentioned that the IRS ethics rules allow me
5 to accept would be the honorary rank.

6 (Laughter.)

7 MS. HAWKINS: But thanks for that offer. And
8 thank you very much for your comments.

9 Our last speaker is Larry Gray. I like to
10 tease Larry and say that he's the original and long-
11 standing IRS groupie.

12 (Laughter.)

13 MS. HAWKINS: But he is in fact, I think, the
14 individual here who has been more into the IRS than any
15 other employee that I have run into so far. He's
16 belonged to or been placed on virtually every advisory
17 committee and board that the IRS has ever formed. He
18 teaches at the tax forums. Larry is from, as he likes
19 to say, Missoura (sic). But I don't know how he
20 manages to practice tax, because every time I'm
21 someplace speaking, here's there too. So he does a lot
22 of traveling, a lot of speaking and he's quite well
23 known. And today he's representing the National
24 Association of Tax Professionals. So, let's hear it,

1 Larry.

2 MR. GRAY: All right. Well, actually, when I
3 got this honor, and I appreciate getting this honor, I
4 thought, you know, I don't want to be on the last panel
5 and the last speaker.

6 (Laughter.)

7 MR. GRAY: Now, I understand why. Anyway,
8 I'm here today to represent the National Association of
9 Tax Professionals and I think the thing we bring to the
10 table, we focus on the issue here, tax preparation.
11 We're not into accounting, we are not into some of the
12 other fields. We have over 19,000 members. There are
13 CPAs, attorneys, enrolled agents, tax preparers, et
14 cetera. We offer over 300 tax courses in over 100
15 cities in the United States. So we are truly focused
16 on education and research dealing with tax.

17 When we look at our -- when we look at our
18 members that are Circular 230 and non-Circular 230,
19 they're CPE, one within about one hour per year of the
20 same. Over 85 percent of our members have post-
21 secondary education.

22 But moving to the issue, back in the winter
23 of 2005 I did a paper that was on registration,
24 licensure or regulation of the profession. In doing

1 that, what I found out when you went to look to see
2 what the population was, and I think that's the first
3 thing, you've got to get your arms around the
4 population, you'd see articles 8-900,000 sometimes as
5 high as 1.2, 1.3 million paid preparers. And that's
6 kind of like a big elephant, but I think it's more like
7 a train because it's going down the tracks. So imagine
8 this train that you got possibly 1.2 million people
9 involved. So you can't stop it, you have to kind of
10 switch tracks and bring it to a higher standard.

11 And in order to try to handle such a large
12 item, what I would like to do today is look at the 5 Es
13 of a profession. You've got to look at education,
14 you've got to look at examination, you've got to look
15 at the experience, ethics, and enforcement. And in
16 each one of those there's a different player.

17 No matter whether we look at registration or
18 licensure first, that competent tax preparer has to
19 have current continuing education in the area they hold
20 out.

21 Secondly, they have to have current
22 experience in the area they hold out. I think those
23 two together raises the level including with ethics of
24 the five items I mentioned, the higher level.

1 When we look at examination, it's kind of
2 like in my office, we currently have the same number of
3 CPAs as EAs. But what happens when somebody passes the
4 exam and they get this little certificate, I always say
5 to them, "you have the keys to the workshop now what
6 are you going to do." So when we look at the word
7 examination, under Circular 230, it's really a minimum
8 entry level. I don't know that that is related to a
9 competent tax preparer. So in doing that I challenge
10 you to think outside the box because no matter if you
11 regulate a license you are going to have some kind of
12 number. In doing that, you have things like errors of
13 returns filed. Once you have the population that's not
14 going to be criminal or go underground, there you can
15 actually have real-time selection of returns. So if I
16 know that I am going to stand a chance to be audited,
17 no different than the taxpayer community, that in
18 itself is a constant reminder also that I need to be
19 sure to raise that bar.

20 One other thought in the area of registration
21 versus licensure, registration is a disclosure.
22 Whether you do that, you know, on IRS.gov or how ever,
23 it's registration to say, at least we're aware of it
24 and then you can -- through that you can file my

1 experience, I can file my continuing education. Again,
2 that's a couple of more reminders and it also tells the
3 population that they are registered.

4 When we go to licensure, though, I remind you
5 that that raises the bar for your side of the table.
6 And that is now you gave me a permission to hold out.
7 And so at that point in time it's more onerous on what
8 you have to do.

9 No matter which way you go, what I'd like to
10 do is give you a going away thought on the three big
11 players in this game; that's the IRS, the taxpayer, and
12 the tax preparer.

13 First with the IRS if I look at Circular 230,
14 it's the enforcement arm. But I believe it has to be
15 expanded and become more flexible. Because if the
16 purpose here is to move to a more -- the taxpayer can
17 rely more on getting a competent preparer then we need
18 an educational arm. Because when I was on the Board of
19 Accountancy, when we started to focus on education we
20 found we could have more impact faster for less
21 dollars. So I think we have to look at that intent.
22 So that's a recommendation as far as a more flexible
23 expanded 230 but in the area of education.

24 Secondly, today we've been asked to talk

1 about a paid preparer. That's only one element of the
2 stakeholders at the table. We have, for example, 230
3 talks about practitioners, you know, and a moment ago,
4 I think Mike mentioned, or no, I think, it was Mike you
5 mentioned that even if I have a -- even if I have an
6 opinion laying in the tax file, I'm still under
7 Circular 230. I think what you have to do is expand
8 and, again, I'm for one oversight, not two separate
9 bodies. Then we have to be able to touch the person
10 that's pre-transactional, helping that taxpayer make up
11 their mind to do the decision, it has to be post-
12 transactional, it has to be pre-filed, filed, and post-
13 filed. Because then it's an equal playing field for
14 everybody. So it doesn't matter whether I'm a
15 promoter, it doesn't matter whether I'm a bank, it
16 doesn't matter whether I'm a signed preparer. So I
17 kind of call that the non-signing portion of the
18 system.

19 And then, finally, I want to address the
20 issue of the taxpayer. Whatever program you allot,
21 market to them. But at some point in time that bar has
22 to be raised also. Because, you know, if the taxpayer
23 -- and I've seen situations where I've represented
24 people out of a project -- you know, an IRS project on

1 preparer and the first thing they will do is say, well,
2 taxpayer if you'll come on board, pay this and the
3 interest we'll waive the penalties. I think what you
4 have to look at is that if taxpayers are going to non-
5 signing preparers, I think at that point in time I
6 think after a marketing period you have to make them
7 accountable too and raise that bar.

8 Thank you.

9 MS. HAWKINS: Thanks very much, Larry.

10 We are going to have the Commissioner
11 exercise his prerogative as the king of the hill and
12 ask the first set of questions.

13 COMMISSIONER SHULMAN: Yeah, but I don't get
14 cowboy boots.

15 (Laughter.)

16 COMMISSIONER SHULMAN: Which is good, at
17 least not free.

18 So, you know, I think people are talking
19 about registration and licensing. I think everybody
20 has mentioned it on both panels that we had. I'm
21 interested -- you know, my understanding is that when
22 people talk about registration they talk about you sign
23 up and you show something. When you talk about
24 licensing people often talk about testing. And so I'd

1 just like to get clearly from this panel, and I'll get
2 to the grandfathering question, but in general, do
3 people feel that in order to prepare a tax return you
4 should have some sort of a test that you need to take
5 at some point early in the career before you get that -
6 - or whatever the credential is that allows you to do
7 that? It's open questions.

8 MR. DEGEN: I certainly believe that. And I
9 think if you look at any type of profession, whether it
10 be a famous barber, a barber needs to have a license
11 and they take an initial competency examination. They
12 have to show that they can shave somebody or cut their
13 hair. So it would just seem to me that we want to
14 elevate this to a profession. And to have a profession
15 you need licensure. And I think, you know, in the
16 State of New York -- I can't speak for every state --
17 but Joe the plumber even needs a license. And Joe has
18 to take an initial competency examination. So I just
19 think professions require licensure.

20 MR. NOLEN: Definitely licensure.
21 Registration implies we are just going to number
22 everybody and okay, we know Joe Blow in this particular
23 town is incompetent. Well, cool, what are you going to
24 do about it? With licensing you've got the implication

1 such as with the State Board of Accountancy, you've got
2 the ability to put them out of the profession. And if
3 they continue to function in that capacity then you can
4 really hit them with a hammer. So licensing is
5 definitely the way to go.

6 COMMISSIONER SHULMAN: Other thoughts?

7 MR. GRAY: I liked your remark of how your
8 qualified it, in the beginning. And I think in the
9 beginning then, yes, if you look at a licensure. But I
10 think it's -- remember this train going down the track,
11 we can't stop it, we still have annual seasons going
12 along, people are -- so that's all going on. So I
13 think it's one of those things where that it may be a
14 phase. And when you said, when they enter, I think
15 that's a good thought. But if you've already got these
16 people out there, remember, an exam, as you said, in
17 the beginning, and as I just made comments to, it
18 doesn't measure competency, it measures the right to
19 hold out.

20 Now, if you change the definition in the
21 exam, then at that point in time it's not that you're
22 getting a credential because I think that's part of the
23 missed concept. Even when I look at 230, everybody
24 associates it back to a title. That doesn't make a

1 competent preparer. So I think that if in the
2 beginning, yes, but I think the people you have now
3 there has to be some kind of measure. And this
4 question is actually hard to answer without going to
5 grandfathering because at the turn of the 20th century,
6 over 100 years ago when you started having CPAs, there
7 were some PAs grandfathered, I think they're pretty
8 well dead now.

9 COMMISSIONER SHULMAN: Well, let me actually
10 go to the grandfathering question.

11 MR. DOLAN: Before you do that --

12 COMMISSIONER SHULMAN: Yeah.

13 MR. DOLAN: Can I just -- I mean, ever party
14 needs a pooper and I'm --

15 (Laughter.)

16 MR. DOLAN: -- I'm not as quick, Doug, to
17 sign on to licensure as a phenomenon.

18 First of all, I'm not sure it means the same
19 thing to you, to me, to any six or seven people looking
20 at it.

21 COMMISSIONER SHULMAN: Yeah, just to be
22 clear, I actually wasn't asking about licensing because
23 it doesn't mean -- I'm asking, should people who
24 prepare a return have to take some sort of a test

1 before they do it; that's my question.

2 MR. DOLAN: My response was just to
3 distinguish myself from my esteemed colleagues who were
4 clearly on board with licensure. My membership would
5 want to explore that in a little more substantive way
6 before we said, yeah, nay or --

7 COMMISSIONER SHULMAN: And what about testing
8 in general? I mean, should there be a test?

9 MR. DOLAN: I think there should be a way
10 that people demonstrate competence. And whether that
11 is one way or whether that's multiple ways, whether
12 it's one part education and one part recurring
13 demonstration of competence, I don't think a test,
14 again, is necessarily the only way to get at it. I
15 clearly believe that you ought to be competent, you
16 ought to have ways of demonstrating competence. And
17 your clients ought to have some confidence in testing
18 for your competence.

19 COMMISSIONER SHULMAN: Armando, do you want -
20 -

21 MR. GOMEZ: I would say subject to
22 grandfathering, absolutely there should be testing.

23 COMMISSIONER SHULMAN: So I want to go to
24 grandfathering because I know that the -- you know,

1 Karen spent a lot of time out and said one of the
2 recurring themes had been people saying, you know,
3 everyone should have a test, but there should be sets
4 of grandfathering. You know, Jim, you, I think, in
5 your testimony, said something interesting which was
6 you should use other tests but IRS should have some
7 authority to go in and make sure that test actually
8 has, you know, serves the purposes that we would be
9 trying to do. I mean, that's a relatively incendiary
10 suggestion that IRS would go in and start telling
11 people whether their test is good or not to file a
12 return. And so I'm curious about expanding on that
13 because it actually is the first kind of avenue to
14 grandfathering that solves two problems.

15 MR. NOLEN: Well, I wish you luck on testing
16 600,000 -- I've seen that number -- preparers in a
17 relatively short period of time. I think frankly you
18 are going to need some help on that. And there are --
19 you know, you don't need to reinvent the wheel. In the
20 first place you've got a test bank of questions for the
21 EA exam to draw on, maybe even a bunch of them are
22 deemed too technical. But you've got a base there.
23 ACAT has a test bank that's been certified by
24 independent -- the State of Oregon has a test bank

1 because they do a federal test. There's all sorts of
2 exams out there. You would have the responsibility
3 though and therefore you need to have the ability to
4 come into ACAT and say, we need to look over your
5 database before we'll certify you as an equivalent
6 exam. Because if it's all messed up, Congress is going
7 to come back on the Service, not ACAT. So you've got
8 to have the ability and anyone that has a test that
9 isn't willing to make it open to the inspection of the
10 Service just isn't going to get approved.

11 COMMISSIONER SHULMAN: Other thoughts about
12 this?

13 MR. DEGEN: Just in grandfathering in
14 general? The one other possibility of grandfathering,
15 and I'm sure you're going to hear at the IRS forums
16 perhaps is based on experience. I don't want to sound
17 flippant, but, you know, Barry Madoff (ph) had 20 years
18 of experience in financial planning.

19 (Laughter.)

20 MR. DEGEN: And we know how that turned out.
21 So I wouldn't want to suggest that.

22 My feeling is that someone who is preparing
23 tax returns for 15 years is going to easily be able to
24 pass this competency examination if they've been doing

1 any type of good job. And it just -- I don't think the
2 purpose here is to hurt people that have a living on
3 preparing tax returns. As I said, if they've been
4 doing this with diligence and with education, passing
5 this examination, I don't believe anyone here is
6 suggesting, if we all agree on some type of
7 examination, to set the bar so high that we are trying
8 to wipe people out. We are simply trying to set a bar
9 so that folks can have at least an initial step in at
10 minimal competency. And down the road who knows where
11 that would lead.

12 But I do think though that any type of
13 grandfathering based on experience is not a good
14 procedure.

15 MR. NOLEN: Am I not correct in that the
16 Service currently uses a third party on the actuary
17 examination?

18 MS. HAWKINS: You're correct in that the
19 Service is using a third-party on the EA examination as
20 well as its actuary examination. Yes.

21 (Simultaneous conversation.)

22 MS. HAWKINS: They administer the test. We
23 haven't left to them the creation of the questions or
24 the answers. We do -- we've done all of that in

1 conjunction with them, but they've taken some of the
2 administrative burden away from us in doing the
3 testing; yes.

4 COMMISSIONER SHULMAN: So let me -- I think
5 we got that, I just want to make sure Mark and Karen
6 have plenty of time. So I'm going to cede the floor to
7 them.

8 MS. HAWKINS: Oh, okay.

9 I'm going to ask this next question on behalf
10 of any Internal Revenue Service employees in the
11 audience. And I'd be interested to hear your responses
12 which is, do you think that tax return preparers as a
13 general group should be subject to periodic compliance
14 checks of their own tax return filings? And if you
15 don't, why not?

16 MR. NOLEN: Sure.

17 (Laughter.)

18 (Simultaneous conversation.)

19 MR. NOLEN: The closer I get to retirement --

20 (Laughter.)

21 MR. GRAY: He's retiring next year.

22 (Laughter.)

23 MR. NOLEN: Right. My daughter's taking
24 over, it's her problem. Service employees have to go

1 through a process before they're hired of having their
2 returns looked at. If you're pushing the envelope or
3 just don't have a clue on your own, God knows what
4 you're going to do for a third party. I don't know
5 that that needs to be, and I think it would be
6 extremely onerous for the Service an annual thing. But
7 --

8 MS. HAWKINS: That's why I used the word
9 "periodic".

10 MR. NOLEN: Yeah, just a periodic spot audit
11 of, you know, not everybody has to do it, but kind of
12 like the auditing the CPE for either enrolled agents or
13 at a board of accountancy. You've only got so much
14 manpower to work with this. But we'd be perfectly
15 happy to have that on the table.

16 MR. GRAY: Each time a periodic -- whether
17 it's every couple years or every three years it's a
18 fact and it's just like with the Board of Accountancy,
19 I sign -- I got a license I sign the statement that,
20 you know, that I am current. And I think that out of
21 that, if you did random checks, you know, I think the
22 important thing, are they filing a return? And then if
23 you're going -- so that is a check. But then if you're
24 going to actually check the returns, I think that's a

1 separate question.

2 MR. DOLAN: I think a lot of accounting firms
3 make it a practice where people are required to either
4 do an affidavit or some other expression of their
5 personal compliance. And I think it ought to be a
6 requisite. I mean, given the context we're talking
7 about this, that is the preparer community being an
8 extension of the compliance process for the preparer
9 not to enter that fray compliant him or herself is an
10 oxymoron.

11 MR. GRAY: Each year in our office each
12 employee has to sign that they filed their return
13 timely.

14 MS. HAWKINS: Do you want to wade into this,
15 Armando, or are the lawyers --

16 (Laughter.)

17 MR. GOMEZ: You know, everyone is supposed to
18 file and they're supposed to do it right. And
19 certainly people who are in this business, as Mike
20 said, you know, ought to be held to a standard. To the
21 extent you have a uniform numbering system, I say this
22 as the guy who doesn't use computers, it shouldn't be
23 that hard to at least check fact of filing on a pretty
24 regular basis. And, you know, whether you dig in, in

1 terms of deeper compliance checks on preparers, I think
2 primarily that's going to be a resource issue.

3 MS. HAWKINS: Thanks

4 I know that you've all addressed it in one
5 way, shape, or form, but I think many of you on the
6 panel know that I struggle with this concept of
7 exemption for people who are licensed in other areas
8 and I particularly, I guess, and we'll throw this
9 question to Armando and Mike, because I get to say it
10 as a lawyer myself, the very fact that I went through
11 law school and passed a bar exam, there was nothing on
12 that examination that qualified me for any kind of tax
13 practice. I know there's a very small piece of the CPA
14 exam that has a couple of tax questions on it, but
15 certainly not, I think, of the level that we're talking
16 about. So is the thought process about exemption for
17 those kinds of professionally licensed people more
18 linked to the fact that they have -- and I'm presuming
19 this for CPAs because quite frankly I'm a little big
20 ignorant of your ethics code, but I certainly know it
21 for lawyers. Which is we're required to demonstrate
22 competence and only accept engagements that we consider
23 ourselves competent to do. Otherwise we have violated
24 our ethical obligations whether or not we violated

1 anything else. Is that the bootstrap that I'm hearing
2 you do when you suggest that the mere fact that people
3 who have been licensed but not tested in the area of
4 expertise that we're talking about should still be
5 exempt from that testing?

6 MR. GOMEZ: Certainly from my perspective
7 that's a big part. Under the model rules which have
8 been adopted in most states we do have a duty of
9 competence. And, you know, lawyers are held
10 accountable for that on a regular basis by state bars.
11 I think there's also something to be said for the fact
12 that in order to be licensed as an attorney you have
13 already demonstrated the ability to, you know, meet the
14 education requirements, to pass the written bar
15 examination as well as the character and fitness
16 examination that state bars require. So there's a
17 number of standards that people have passed in order to
18 be qualified to hold themselves out as a lawyer. And
19 certainly in other professions we understand that to be
20 similar and that's the basis on which we would say
21 that, you know, demonstrated ability to, you know,
22 understand and comply with laws.

23 MR. DOLAN: And I think Armando is doing a
24 great job in sort of laying out a premise that goes

1 beyond the fact that just because you are a CPA or just
2 because you are an attorney, you have somehow got some
3 status. I do think that implicit in the professions of
4 those groups and others have undertaken is this premise
5 of understanding the law on which you opine or on which
6 you act. It doesn't mean that there will never be an
7 attorney or a CPA who screws up and makes a mistake.
8 But, I mean, I think the whole -- as contrasted with
9 some of the stories we heard about people who do this
10 as their April job or who hang a shingle and do 100
11 returns or who want to -- I mean, our -- I think our
12 associations or our bodies are comprised of
13 professionals who have chosen to invest their
14 intellect, their energy in a type of professional
15 service that almost implies that I want to be competent
16 if I'm going to come to you and ask to be your
17 representative. And is that something that you can put
18 a modification to eliminate the chance that anybody
19 will ever make an error or anybody will be unethical?
20 No. But I think it's a considerably different thrust
21 than folks who are I'll call "more itinerant" from
22 professionals.

23 MS. HAWKINS: So sort of tying you into the
24 first panel, the concept would be that the expectation,

1 at least for the licensed CPA and lawyer is that their
2 duty to be competent in what they do would mean that
3 you would never touch an EITC return?

4 (Laughter.)

5 MR. DOLAN: It sure would mean that for me.

6 (Laughter.)

7 MR. GOMEZ: And, Karen, I'm not qualified to
8 prepare my own returns so and I recognize that and so,
9 you know, I think it's a lawyer's duty to understand
10 where their limits are.

11 MS. HAWKINS: One of the other things that I
12 would like to try out on you because it's coming up and
13 I know it's been discussed in other areas and some of
14 the earlier panel as well as some of you brought up
15 this sort of trusted position, extraordinarily trusted
16 position that tax return preparers of all ilks are
17 placed in. People share their most intimate
18 confidences in ways that they often don't even share
19 with their spouses and particularly their financial
20 data with these preparers in order to get things done.
21 Should we be thinking in addition to the testing and
22 competency that you're talking about, should we be
23 thinking of some way of confirming the backgrounds of
24 these people so that at least we're not giving numbers

1 to known felons? I mean, I don't know how far down the
2 road we go, but where do you see the notion of
3 background checking going and how extensive might it be
4 or should it be?

5 MR. GOMEZ: Well, I'm happy to jump in first
6 on that. I think as with everything that the Service
7 tries to take on, resources are going to be one of your
8 biggest constraints. I think it would be easy to say
9 that, you know, everyone should go through a complete
10 background check and, you know, have the FBI check them
11 out and all that, that would be great. But there are
12 too many paid preparers out there that's never going to
13 happen.

14 If you have a numbering system, again, you
15 ought to be able to check on the front end, has this
16 person prepared -- you know, filed their own tax
17 returns. If they haven't, they shouldn't get a number.
18 You know, to the extent that there are ways to, you
19 know, electronically weed out some people at the front
20 end, that would be great. But, you know, I think
21 beyond that while this is very important and people,
22 you know, get access to, you know, very sensitive
23 financial information for all of their customers, I
24 don't think that you'll be able to go too deep into,

1 you know, background check in order -- you know,
2 without imposing costs both to the government as well
3 as costs -- you know, entry into the marketplace for
4 people who want to earn a living doing this.

5 MR. GRAY: I think that as you said on an
6 ongoing system, I think it's another one of those that
7 it's, you know, you've raised ethical standards and I
8 think what, you know, we've talked a lot about the
9 unscrupulous, we've talked about the bad preparers.
10 But for a moment, let's talk about that high percentage
11 of people trying. And I think on a volunteer system
12 that whether you register a license each time they come
13 around whether it's every three years or whatever,
14 again, it's one of those things, have you done your
15 CPE, you know, have you committed any criminal act
16 besides getting a speeding ticket or -- again, I think
17 we have to do that and it might be random. And then
18 it's under, I'm signing again that I have to give up my
19 privilege -- I have to give up my privilege if you
20 happen to do a random check on me. And I think, again,
21 it's more as you raise the bar with this group they're
22 going to move up too.

23 MR. DEGEN: I think it would be appropriate
24 to have the similar background check that enrolled

1 agents go through. I think your office probably has a
2 -- not a full-blown investigative, but you do go
3 through a number of databases, don't you, in terms of -
4 -

5 (Laughter.)

6 MR. DEGEN: But you certainly check
7 compliance and probably ERO status and things of that
8 nature.

9 MS. HAWKINS: Well, yeah, we probably check
10 more on, you know, there are really two kinds of EA
11 types, the ones who take the exam and the ones who have
12 demonstrated their competence by working inside the
13 Internal Revenue Service and so they're former
14 employees and they have to be within a certain practice
15 area within the Service and demonstrated that they've
16 done that competently. I think we do a more thorough
17 job of checking on former employees' backgrounds
18 because we have access to better databases right inside
19 the Service with regard to that than we do with respect
20 to the outsiders. We, for the most part, I think trust
21 that when people fill out their application forms that
22 they're telling us the way it is. And we do ask about
23 felonies, for instance.
24 Mark.

1 MR. ERNST: I wanted to use this maybe as a
2 jumping out point because I think both Jim and Mike
3 commented similarly. I'm concerned about the -- to the
4 extent that there is some kind of a building
5 concurrence that some kind of a competency standard
6 should be applied, how we get from where we are today
7 to that standard or some kind of a regime that takes it
8 into consideration and all the both unintended
9 consequences as well as the transitional challenges
10 that would, you know, exist, because there's a very
11 large body of people out there who are today serving,
12 you know, 130 million people. And to move to something
13 that disrupts the train that is moving down the track
14 is clearly a risk that we need to take into
15 consideration.

16 So I'm interested, and maybe, Jim, and you
17 were the one who said it first, that, you know, this
18 needs to be an orderly transition. I'm wondering if
19 you can expand on that and what you think that might
20 have meant or what that might look like for us?

21 MR. NOLEN: Well, by orderly I like the
22 concept of starting with a new database first of all.
23 Because we need to be able to track things better.
24 Everybody's got to have a number on the -- whether

1 they're grandfathered or tested. Simply because what I
2 was thinking on the last question, you get a CPA or an
3 attorney who is defrocked, if they don't have the
4 number, if they're just practicing out there because
5 they're a CPA or whatnot, they're going to turn right
6 around and try to get a tax number from you and that
7 may not be one of the people you want to let in, they
8 were just, you know, had their CPA certificate revoked.
9 So you've got to have one numbering system, one
10 database. I think it's going to take you two, three
11 years to test this many people if the estimates of
12 600,000 or more are accurate. There aren't that many
13 computer terminals with prometric out there to get that
14 many people.

15 MR. DOLAN: Mark, I kind of go back to the
16 guy that referred it. Certainly Doug opened it up as
17 all things around the table. I mean, if -- I mean, you
18 could have something as straightforward as -- in order
19 to get a number -- you give us a self-assessment of
20 competence. Or you, in order to get a number, you have
21 to have some preliminary. But, again, the notion of
22 "the test", I mean, what is the preliminary test? In
23 the preliminary test going to satisfy folks that the
24 guy who is sitting in my hometown of Iowa doing a lot

1 of straightforward 1040's and probably not made a
2 mistake in his career, are you going to give him the
3 same test that the guy who wants to do RAL EITC's or
4 wants to do R&E credit or wants to do transfer placing
5 studies? And so to me the sticky wicket is if that's
6 the vehicle, if testing is the vehicle to say, yes,
7 there is some modicum of competence that we at IRS are
8 going to stand behind. Because that's what you're
9 doing. You basically are saying, here ye, here ye, we
10 say this guy is capable. That's that part that I'm not
11 smart enough to figure out exactly how you invent the
12 testing regime that gets you some confidence but
13 doesn't make people overly confident about what you are
14 able to test for.

15 MR. NOLEN: You need to start with a
16 blueprint -- a footprint.

17 MR. DEGEN: Going back to your original
18 question about the transition, it would seem to me
19 that, you know, we advocated on the statement that we
20 want OPR to run the show. And they have it -- right
21 now they renew enrolled agents on a three-year cycle
22 and they do it in a manner that minimizes their work
23 that at one time all enrolled agents had to renew at
24 the same time. And what they've done is they've

1 basically spread it over a three-year period.

2 So I would assume that if the Service decided
3 to have this type of licensure or whatever you want to
4 call it, that it would have to be phased-in over a
5 period of time. That folks that -- and I'm just making
6 this up, throwing out a comment -- folks that have a 0,
7 1, or 2 in their Social Security number you're in the
8 first group. And then the 3, 4's, and 5's you're in
9 the next group, and so on. And you can spread that out
10 over perhaps four years. I mean, but certainly we -- I
11 don't think we in the practitioner community would
12 expect the Service to be able to do this like, you
13 know, say Commissioner Shulman said, on December 31st,
14 we're going for licensure that we would anticipate by
15 April 15th everyone would be done. I mean, it's just
16 not going to happen.

17 But I do think that your model in OPR is a
18 good one and you can spread it out as long a period of
19 time as necessary to do a good job.

20 MR. GRAY: If I could follow-up on Mike's
21 remark. I guess we'll look at, you know, we've spent a
22 lot of time on the word "testing". I mean, you can
23 have CPE with testing behind that. As Karen alluded to
24 before, I speak a lot, and I speak a lot on current tax

1 law. And whenever I go out to do a day program I've
2 spent hundreds of hours prepping for that. And I get
3 up to present and someone in the crowd is going to ask
4 a question and I'm like, I hadn't thought of that
5 before.

6 So I think when we associate examination with
7 competent preparers, I think what we have to watch that
8 in and of itself. If I take a test to enter all that
9 has done is allow me to enter. But, beyond that, each
10 year testing is not the real measure. Because if I
11 memorize, then that could be the worst thing that could
12 happen to me, because if I don't stay current in the
13 law in my area, then am I achieving the goals you are
14 trying to get at here today? I think it's not whether
15 it's licensure or registration, I think it's a matter
16 of we're trying to improve the competency of a
17 preparer. And in that because, you know, Congress
18 doesn't pay any attention anymore to taxes. We get
19 laws changed at February the 9th. The point there is,
20 it's more important to stay current and to realize how
21 to stay current. That's the ethical responsibility.
22 It's not that I learned how to take a test. So now
23 that I've taken the test the bar drops and that's a
24 concern. If you don't go some day forward and say,

1 okay, to come into this profession, you know, you need
2 to take this test.

3 But, again, what I look at, the most
4 important thing, is how you keep them competent, not
5 that you got them competent. And I think that's the
6 bigger, higher standard or question.

7 MR. NOLEN: From my perspective protection of
8 the public is the reason we do anything along the lines
9 like this. That's the goal. It isn't to give another
10 certificate or license or whatnot for me to hang on the
11 wall. It's to protect the public. And minimum
12 competency testing on the front end is the start to
13 that process for us. As far as formulating that, you
14 start with what's called a footprint. What does the
15 Service -- you can interact with practitioner groups.
16 ACAT has been doing this since 1970, what do I as a
17 practitioner expect a new employee to know, minimum?
18 That creates your footprint and from that then the test
19 banks are developed.

20 In the other panel they mentioned one point
21 that I would like to make a comment on is annual
22 testing with -- I'm opposed to that. And the specific
23 reason is, Congress passes their laws so late you don't
24 have -- the Service hasn't gotten the regs out on

1 interpreting the statutes in time to give a test before
2 tax season starts.

3 Now, that's just a fact of life of a whole
4 lot of years. Now, occasionally they are kind and pass
5 things in the summer so that by the fall everybody
6 actually knows what they're doing. That's becoming not
7 the norm. So, you know, the annual test would actually
8 be on last year's law, not on the current year law
9 which --

10 MR. GRAY: But the thing -- to follow-up with
11 you on that -- and what Mike said earlier, the tax code
12 is so complicated. I mean, I've got a friend that does
13 nothing but real estate partnerships only. So how many
14 different tests do you have and when do you give that
15 because the laws are changing. It's not only just
16 Congress. It's court cases, it's notices, it's
17 rulings, it's announcements. I mean, it's really nice
18 to talk about this, but when we get in the real world
19 and we apply it, there are so many specialties in our
20 profession, so how many -- all of a sudden we to get to
21 the point of, okay, I've got to take this test, but
22 this test has not one question on it dealing with my
23 specialty. What do you do about that?

24 MR. DEGEN: Let me make one comment. What I

1 think the crux of the matter comes, you know, the kind
2 of clients that Mike and Armando see are not the
3 typical taxpayer that we talk about. I think we three
4 represent -- our organizations see more what we call
5 the typical taxpayer. And unfortunately we want to
6 protect the taxpayer because a lot of those people have
7 the perception, it may not be the reality, and there's
8 a saying, perception is reality, but it may not be.
9 They have the perception that the other guy is getting
10 away with something.

11 When I talk to my taxpayers and I say to
12 them, you can't pay contributions off anymore if you
13 don't have a receipt, they always invariably say, well,
14 the guy down the street does it and they -- a person
15 who is doing the right thing should -- the taxpayer who
16 is doing the right thing should not be like he's the
17 dope. All right. That he is doing -- that he's the
18 guy that is paying the price. And I think that in all
19 of this we need to make sure that the -- you can't use
20 this with the average taxpayer because the folks this
21 morning, you know, we're all one company, the average,
22 but, no, they're getting ripped off as well.

23 So I don't know where the line is, but I
24 think you all know what I'm driving at that we want to

1 protect the taxpayers and we all have different
2 perceptions here, but that's, I think, all of us would
3 agree on that. And I do think that we need to make
4 sure that the system you have is such that a taxpayer
5 who does the right thing feels good about it, and
6 that's really, really tough in this environment right
7 now.

8 (Applause.)

9 MS. HAWKINS: That feels like the perfect
10 note on which to stop this panel.

11 (Laughter.)

12 MS. HAWKINS: And as we said in the first, we
13 could go on forever, and as you see some people are
14 very impassioned about the topic, but we have come to a
15 point where we need to leave a few minutes for the
16 Commissioner to say goodbye to us.

17 So I would just like to thank the five
18 gentlemen on my panel for all their preparation time
19 and giving of their time to come here with us today. I
20 think it's been incredibly helpful for us on this side
21 of the table. Thank you very much.

22 And Commissioner.

23 COMMISSIONER SHULMAN: Okay. Let me wrap up.
24 So these two panels today I think in many ways proved

1 the point that I started with which is, you know, the
2 IRS is the core and the tax system is responsible for
3 running it. But there's a lot of people who are part
4 of the tax system working with taxpayers to make
5 voluntary compliance easier to make sure the right
6 amount of money is collected by the government to make
7 sure that taxpayers are treated fairly.

8 The first panel represented consumers, but it
9 also largely represented individuals who dedicated
10 their career to working with taxpayers to make sure
11 that they can navigate the system successfully.

12 This panel representing, you know, we called
13 it the professional and preparer panel, is people
14 clearly dedicated to making sure that the system works
15 right. I mean, you're here representing thousands,
16 hundreds of thousands of people who are integral to the
17 tax system. So I just want to really extend my thanks.
18 Not just to showing up today and helping us with this
19 very important issue, but for the work that you do
20 every day on behalf of American taxpayers.

21 You know, when it really comes down to it, I
22 think people were talking about, you know, this whole
23 discussion is how do we make sure that preparers are
24 competent? How do we make sure that preparers operate

1 with integrity? And how do we make sure that preparers
2 are part of the overall system of voluntary compliance?

3 A couple of the panel members mentioned that,
4 you know, the reason this is so important is taxpayers
5 show up and work with preparers, they turn over some of
6 the most sensitive information they have, they open up
7 to them, and they depend on a preparer really helping
8 them one of the largest financial transactions that
9 they have every year. And so depending on who you are
10 can mean a business, you know, investing and being able
11 to get more employees, it can mean actually having
12 money to get you through, you know, a difficult time in
13 your life. So it's really important to the American
14 taxpayers.

15 These are not easy questions. If they were
16 easy, you know, Mike would have solved them ten years
17 ago. And the Service, you know, would have been on top
18 of it. These all come to resource tradeoffs. We have
19 limited resources to do our job and we have to decide
20 where to do them.

21 There was a lot of talk about transition. I
22 will tell you how I come about this. I think about our
23 job here for the next several months as we wade through
24 these issues is to say, what should the system look

1 like ten years from now? That we need to take off all
2 of the barriers and then we can work backwards and
3 figure out how you phase things in and how you make
4 things work. I think that's how organizations have to
5 move forward with strategy which is what's the right
6 answer and then what are the realities on the ground?
7 And so we're not naive at all around, you know, this is
8 going to affect taxpayers, tax practitioners and the
9 IRS in whatever direction we go.

10 So I couldn't be more pleased with this
11 dialogue. For me this was a great way for us to kick
12 off the public forum.

13 I want to thank everybody who was here today.
14 I want to encourage you to write us and to give us your
15 input. And I also just want to say a reminder because
16 the tax community is big, diverse, but it's also
17 relatively small that the three of us and the other
18 senior leaders at the IRS are wading into this with an
19 open mind. Don't read anything into our questions. We
20 are still at the probing state. No decisions have been
21 made and so we're going to look forward to an ongoing
22 dialogue.

23 So thanks, everybody, for spending the time
24 with us today. Thanks to the panel members.

1 (Whereupon, at 11:57 a.m., the meeting was
2 adjourned)